

Exhibit 115

Leone, Lynn E.

January 17, 2008

Chicago, IL

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X
In re: PHARMACEUTICAL INDUSTRY) MDL DOCKET NO.
AVERAGE WHOLESALE PRICE) CIVIL ACTION
LITIGATION.) 01CV12257-PBS
-----X

DEPOSITION OF LYNN E. LEONE
JANUARY 17, 2008

The videotaped deposition of LYNN E.
LEONE, called by the United States for examination,
Taken pursuant to subpoena and pursuant to the
Federal Rules of Civil Procedure for the United
States District Courts pertaining to the taking of
depositions, taken before Rachel F. Gard, Certified
Shorthand Reporter, at 77 West Wacker Drive, Suite
3500, Chicago, Illinois, commencing at 9:05 a.m. on
the 17th day of January, A.D., 2008.

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January 17, 2008

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| Page 2 | Page 4 |
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| <p>1 APPEARANCES:</p> <p>2</p> <p>3 Telephonically on behalf of the United</p> <p>4 States:</p> <p>5 U.S. DEPARTMENT OF JUSTICE</p> <p>6 CIVIL DIVISION</p> <p>7 MS. ANN ST. PETER-GRIFFITH</p> <p>8 99 N.E. 4th Street</p> <p>9 Miami, Florida 33132</p> <p>10 Phone: (305) 961-9003</p> <p>11 Email: ann.stpeter-griffith@usdoj.gov</p> <p>12</p> <p>13 On behalf of the State of California:</p> <p>14 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE</p> <p>15 BUREAU OF MEDI-CAL FRAUD & ELDER ABUSE</p> <p>16 MR. ELISEO SISNEROS</p> <p>17 110 West A Street</p> <p>18 Suite 1100</p> <p>19 San Diego, California 92101</p> <p>20 Phone: (619) 688-6043</p> <p>21 Email: eliseo.sisneros@doj.ca.gov</p> <p>22</p> | <p>1 INDEX</p> <p>2</p> <p>3 WITNESS: LYNN E. LEONE PAGE</p> <p>4 Examination by Ms. St. Peter-Griffith..... 009</p> <p>5 Examination by Mr. Anderson..... 279</p> <p>6</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 NUMBER DESCRIPTION PAGE</p> <p>10 Exhibit Leone 001-ABT-DOJ 319883 - 984 and</p> <p>11 ABT-DOJ319889..... 157</p> <p>12 Exhibit Leone 002-ABT-DOJ 303226 - 245..... 159</p> <p>13 Exhibit Leone 003-ABT-DOJ 3180124..... 171</p> <p>14 Exhibit Leone 004-ABT-DOJ 321673 - 674..... 181</p> <p>15 Exhibit Leone 005-ABT-DOJ 319885..... 185</p> <p>16 Exhibit Leone 006-ABT-DOJ 320059 - 060..... 191</p> <p>17 Exhibit Leone 007-ABT-DOJ 317622 - 635..... 199</p> <p>18 Exhibit Leone 008-ABT-DOJ 324178 and</p> <p>19 ABT-DOJ 324166 - 175..... 205</p> <p>20 Exhibit Leone 009-Coram 0451..... 215</p> <p>21 Exhibit Leone 010-Coram 0452 - 460..... 215</p> <p>22 Exhibit Leone 011-LNHQ-05157..... 230</p> |
| Page 3 | Page 5 |
| <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of the Relator Ven-A-Care of the</p> <p>4 Florida Keys, Inc.:</p> <p>5 ANDERSON, LLC</p> <p>6 MR. C. JARRETT ANDERSON</p> <p>7 208 West 14th Street</p> <p>8 Suite 3-B</p> <p>9 Austin, Texas 78701</p> <p>10 Phone: (512) 469-9191</p> <p>11 Email: jarrett@anderson-llc.com</p> <p>12</p> <p>13 On behalf of Abbott Laboratories and the</p> <p>14 Deponent:</p> <p>15 JONES DAY</p> <p>16 MS. TONI-ANN CITERA</p> <p>17 222 East 41st Street</p> <p>18 New York, New York 10017</p> <p>19 Phone: (212) 326-3939</p> <p>20 Email: tcitera@jonesday.com</p> <p>21</p> <p>22 ALSO PRESENT: Anthony Micheletto, Videographer</p> | <p>1 EXHIBITS (CONTINUED)</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit Leone 012-ABT-DOJ-E 0193744..... 233</p> <p>4 Exhibit Leone 013-ABT-DOJ-E 0012023 and</p> <p>5 ABT-DOJ-E 0012099..... 237</p> <p>6 Exhibit Leone 014-ABT-DOJ 0201419 - 420..... 249</p> <p>7 Exhibit Leone 015-ABT-DOJ 0173355 - 356..... 253</p> <p>8 Exhibit Leone 016-ABT-DOJ 0377119 - 164..... 332</p> <p>9 Exhibit Leone 017-ABT-DOJ 0377165 - 201..... 332</p> <p>10 Exhibit Leone 018-Harling 000035 - 047..... 281</p> <p>11 Exhibit Leone 019-TXTABT-E 0065052 - 067..... 300</p> <p>12 Exhibit Leone 020-ABT AWP/MDL 197141 - 162..... 315</p> <p>13 Exhibit Leone 021-ABT AWP/MDL 143317..... 336</p> <p>14 Exhibit Leone 022-BR 02495..... 356</p> <p>15 Exhibit Leone 023-BR 02418..... 361</p> <p>16 Exhibit Leone 024-BR 02422..... 365</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> |

2 (Pages 2 to 5)

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January 17, 2008

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| Page 6 | Page 8 |
|---|---|
| <p>1 PROCEEDINGS</p> <p>2</p> <p>3 THE VIDEOGRAPHER: This is Anthony</p> <p>4 Micheletto representing Henderson Legal Services.</p> <p>5 I am the operator of this camera. This is the</p> <p>6 videotaped deposition of Lynn Leone as being</p> <p>7 taken pursuant to Federal Rules of Civil</p> <p>8 Procedure on behalf of the plaintiff.</p> <p>9 We are on the record on January 17th,</p> <p>10 2008. The time is 9:05 a.m. as indicated on the</p> <p>11 video screen. We are at the offices of Jones</p> <p>12 Day, 77 West Wacker Drive, Chicago, Illinois.</p> <p>13 The case is captioned In Re:</p> <p>14 Pharmaceutical Industry, Average Wholesale Price</p> <p>15 Litigation, Case No. 01-12257-PBS.</p> <p>16 Will the attorneys please identify</p> <p>17 themselves for the video record.</p> <p>18 MR. ANDERSON: Jarrett Anderson for the</p> <p>19 relator.</p> <p>20 MS. ST. PETER-GRIFFITH: Ann St. Peter-</p> <p>21 Griffith on behalf of the United States.</p> <p>22 MR. SISNEROS: Eliseo Sisneros,</p> | <p>1 MR. ANDERSON: Okay, Ann.</p> <p>2 MS. ST. PETER-GRIFFITH: Okay. Toni,</p> <p>3 before we get started with questioning, I'd just</p> <p>4 like to get on the record that now -- the Texas</p> <p>5 deposition is concluded and now we're -- we've</p> <p>6 moved on to the federal portion, so can we</p> <p>7 operate -- Do you have an objection to operating</p> <p>8 under the Federal Rules?</p> <p>9 MS. CITERA: No.</p> <p>10 MS. ST. PETER-GRIFFITH: Okay. Good</p> <p>11 morning, Ms. Leone.</p> <p>12 THE WITNESS: Good morning.</p> <p>13 MR. ANDERSON: Can I interject one</p> <p>14 thing, Ann?</p> <p>15 MS. ST. PETER-GRIFFITH: Sure.</p> <p>16 MR. ANDERSON: When you say the federal</p> <p>17 deposition, you mean both cases pending in the</p> <p>18 MDL, both the California case and the United</p> <p>19 States case?</p> <p>20 MS. ST. PETER-GRIFFITH: Correct, yes.</p> <p>21 I meant a reference to AWP/MDL litigation.</p> <p>22 MR. ANDERSON: Right, thank you.</p> |
| Page 7 | Page 9 |
| <p>1 Attorney General, State of California.</p> <p>2 MS. CITERA: Toni Citera for the</p> <p>3 defendant.</p> <p>4 THE VIDEOGRAPHER: The court reporter</p> <p>5 is Rachel Gard from Henderson Legal Services of</p> <p>6 Washington, D.C. Please swear in the witness.</p> <p>7 (Witness sworn.)</p> <p>8 MR. ANDERSON: Good morning, Ms. Leone.</p> <p>9 THE WITNESS: Good morning.</p> <p>10 MR. ANDERSON: You realize this is a</p> <p>11 continuation of a prior deposition that you've</p> <p>12 given in this matter?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. ANDERSON: I was asking you</p> <p>15 questions, I believe, at the time that the prior</p> <p>16 questioning was concluded for the day. And at</p> <p>17 this point, I'm going to pass the witness. And</p> <p>18 depending on how the questions go for the</p> <p>19 remainder of the day, I may or may not have</p> <p>20 additional questions for you toward the end of</p> <p>21 the day.</p> <p>22 THE WITNESS: Okay.</p> | <p>1 WHEREUPON:</p> <p>2 LYNN E. LEONE,</p> <p>3 called as a witness herein, having been first</p> <p>4 duly sworn, was examined and testified as</p> <p>5 follows:</p> <p>6</p> <p>7 EXAMINATION</p> <p>8 BY MS. ST. PETER-GRIFFITH:</p> <p>9 Q. Good morning, Ms. Leone.</p> <p>10 A. Good morning.</p> <p>11 Q. Ma'am, we've had some time pass between</p> <p>12 when you last sat down for your deposition. And</p> <p>13 I wanted to inquire of you what you've done to</p> <p>14 prepare for today's reconvened deposition.</p> <p>15 A. I met with Toni Citera yesterday, and</p> <p>16 we had a conference call on Monday morning. And</p> <p>17 I reviewed my deposition from last summer and the</p> <p>18 exhibits that went along with it.</p> <p>19 Q. And when you met with Ms. Citera, was</p> <p>20 anyone else with you?</p> <p>21 A. For part of the time, there was in-</p> <p>22 house counsel.</p> |

3 (Pages 6 to 9)

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| <p style="text-align: right;">Page 10</p> <p>1 Q. And do you recall the name of that in-</p> <p>2 house counsel?</p> <p>3 A. Yes. It was Royce Bedward.</p> <p>4 Q. Okay. And is that in-house counsel for</p> <p>5 Abbott or in-house counsel for Hospira?</p> <p>6 A. In-house counsel for Hospira.</p> <p>7 Q. And I apologize. I know I frequently</p> <p>8 mispronounce Hospira. You can correct me,</p> <p>9 please.</p> <p>10 A. Okay.</p> <p>11 Q. Did you meet with anybody else?</p> <p>12 A. No.</p> <p>13 Q. Approximately how much time did you</p> <p>14 spend meeting with Ms. Citera?</p> <p>15 A. For two hours on Monday morning and for</p> <p>16 about six hours yesterday.</p> <p>17 Q. And the two hours was the telephonic</p> <p>18 conference you referenced?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And was anybody else on that</p> <p>21 telephonic conference?</p> <p>22 A. No.</p> | <p style="text-align: right;">Page 12</p> <p>1 A. No, other than Ms. Citera and Abbott</p> <p>2 counsel when they sent me the deposition and then</p> <p>3 Royce from Hospira.</p> <p>4 Q. Okay. Who did -- Did you speak with</p> <p>5 someone at Abbott in-house counsel?</p> <p>6 A. Not about the deposition per se. Just</p> <p>7 about reviewing the deposition, and that's pretty</p> <p>8 much -- that was pretty much it.</p> <p>9 Q. Okay. So when the deposition</p> <p>10 transcript was forwarded to you, it was forwarded</p> <p>11 by someone in-house at Abbott?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Other than conversations with</p> <p>14 counsel -- So then other than conversations with</p> <p>15 counsel or communications with counsel, you</p> <p>16 haven't spoken with anyone else about your</p> <p>17 deposition or about the subject matter of this</p> <p>18 lawsuit?</p> <p>19 A. No.</p> <p>20 Q. Okay. You referenced at your first</p> <p>21 deposition that you did have a conversation with</p> <p>22 Mike Sellers. Do you recall giving that</p> |
| <p style="text-align: right;">Page 11</p> <p>1 Q. Other than reviewing your deposition</p> <p>2 transcript and the exhibits, did you review any</p> <p>3 other documents?</p> <p>4 A. Ms. Citera showed me a couple of pages</p> <p>5 out of the case management training manual from</p> <p>6 Home Infusion Services.</p> <p>7 Q. Do you have a copy of those documents?</p> <p>8 MS. CITERA: They were produced by</p> <p>9 Bruce Rodman.</p> <p>10 MS. ST. PETER-GRIFFITH: Okay. Which</p> <p>11 pages? Do you have them?</p> <p>12 MS. CITERA: Oh, I don't have them with</p> <p>13 me.</p> <p>14 MS. ST. PETER-GRIFFITH: Toni, can you</p> <p>15 just at some point email me the Bates numbers of</p> <p>16 those pages?</p> <p>17 MS. CITERA: Sure.</p> <p>18 BY MS. ST. PETER-GRIFFITH:</p> <p>19 Q. Ma'am, since your -- the last time we</p> <p>20 were together at your deposition, have you had</p> <p>21 any conversations with anyone concerning your</p> <p>22 deposition or the subject matter of the lawsuit?</p> | <p style="text-align: right;">Page 13</p> <p>1 testimony?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. What did you discuss with him?</p> <p>4 A. He asked me a couple of questions. I</p> <p>5 think this was -- I think he was asking me</p> <p>6 questions in relationship to the deposition that</p> <p>7 he was going to give as the 30(b), or whatever</p> <p>8 that is, something (b).</p> <p>9 Q. 30(b)(6) witness?</p> <p>10 A. Yes, the 30(b)(6) witness. There were</p> <p>11 a couple of questions. I don't remember what we</p> <p>12 talked about. I don't remember what those</p> <p>13 specific questions were that he asked me.</p> <p>14 Q. Okay. Do you recall whether they</p> <p>15 pertained to Abbott or Hospira -- Hospira?</p> <p>16 A. I believe they were Abbott questions.</p> <p>17 Q. Okay. Do you know whether they</p> <p>18 pertained to Abbott HPD or Abbott Alt Site more</p> <p>19 specifically? Do you remember the general</p> <p>20 subject matter?</p> <p>21 A. I believe they were Alternate Site</p> <p>22 questions, but that was -- that's as far as my</p> |

4 (Pages 10 to 13)

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| <p style="text-align: right;">Page 14</p> <p>1 recollection goes.</p> <p>2 Q. Okay. Do you recall what responses you</p> <p>3 gave to him?</p> <p>4 A. No, because if I remembered the</p> <p>5 questions, I'd probably remember what I</p> <p>6 responded.</p> <p>7 Q. Okay. Were you able to respond to the</p> <p>8 questions that he asked? Or did he ask you</p> <p>9 questions and you just didn't know the answer or</p> <p>10 couldn't remember the answer?</p> <p>11 A. I don't recall what we talked about. I</p> <p>12 mean, that's how blank my memory is on that.</p> <p>13 Q. Okay. Other than it may have pertained</p> <p>14 to Alt Site?</p> <p>15 A. Right.</p> <p>16 Q. Okay. Ma'am, have you had any other</p> <p>17 conversations with anyone other than counsel</p> <p>18 concerning this lawsuit at all either before your</p> <p>19 deposition or -- we've covered after, but before</p> <p>20 your deposition?</p> <p>21 A. No.</p> <p>22 Q. Okay. Has anyone asked you to help</p> | <p style="text-align: right;">Page 16</p> <p>1 going to say. A couple of years ago, I was asked</p> <p>2 to help pull some flow charts of individuals; and</p> <p>3 that's -- that was a couple of years ago, just to</p> <p>4 identify the people within Hospira who might have</p> <p>5 them. And that's as involved as I ever got in</p> <p>6 that, and that was at the request of counsel.</p> <p>7 Q. Okay. Did those flow charts include</p> <p>8 the identification of sales force individuals?</p> <p>9 A. It had their names on it.</p> <p>10 Q. Okay. And that was a couple years ago?</p> <p>11 A. Yeah, that was in relation to pulling</p> <p>12 some data.</p> <p>13 Q. Okay. And where did you pull that data</p> <p>14 from?</p> <p>15 A. I went to the various organizations to</p> <p>16 ask them if they had those organizational flow</p> <p>17 charts. And then I forwarded them on to Abbott</p> <p>18 who I believe forwarded them on to Jones Day.</p> <p>19 Q. When you say those organizations, what</p> <p>20 do you mean? Within Hospira or at Abbott?</p> <p>21 A. They were old flow charts, old</p> <p>22 organization charts from Abbott days.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 identify Alternate Site sales force individuals</p> <p>2 or individuals who served on Abbott's Alt Site</p> <p>3 sales force?</p> <p>4 A. No.</p> <p>5 Q. Do you know whether there are Alt Site</p> <p>6 or former Alt Site sales force members who are</p> <p>7 currently Hospira employees?</p> <p>8 A. Yes, there are.</p> <p>9 Q. Okay. Do you know whether Hospira has</p> <p>10 sort of Hospira or company-wide email</p> <p>11 capabilities?</p> <p>12 A. Yes, there is.</p> <p>13 Q. Do you ever recall seeing any email</p> <p>14 inquiry or hearing about any inquiry of Hospira</p> <p>15 employees as to whether or not someone or -- as</p> <p>16 to the identification of former Alt Site sales</p> <p>17 force members?</p> <p>18 MS. CITERA: I'm just going to caution</p> <p>19 you not to reveal any discussions with counsel</p> <p>20 that you may have had.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Okay. Because that was what I was just</p> | <p style="text-align: right;">Page 17</p> <p>1 Q. From, I'm sorry, Abbott what?</p> <p>2 A. From when we were a part of Abbott</p> <p>3 Laboratories.</p> <p>4 Q. Okay. Did you pull that information,</p> <p>5 though, from Abbott records at an Abbott</p> <p>6 facility; or did you pull them from Abbott</p> <p>7 records at a Hospira facility?</p> <p>8 A. Abbott records at a Hospira facility.</p> <p>9 Q. Have you been involved -- Have you been</p> <p>10 with any pulling of records at Hospira that are</p> <p>11 old Abbott records other than those particular</p> <p>12 flow charts?</p> <p>13 MS. CITERA: Again, I'm just going to</p> <p>14 caution you not to reveal any conversations. You</p> <p>15 can answer the question that's posed to you.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Okay. When -- When we have been</p> <p>18 requested by counsel to pull any type of</p> <p>19 information, I have been the key person that's</p> <p>20 been contacted to get in touch with the</p> <p>21 appropriate individuals to pull that data.</p> <p>22 Q. Okay. So let's break this out a little</p> |

5 (Pages 14 to 17)

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| <p style="text-align: right;">Page 18</p> <p>1 bit. How many times have you been contacted to 2 pull information? 3 A. I don't know how many times. I would 4 guess that whenever there was data that needed to 5 be pulled, I was the one who ended up being 6 contacted to pull it. So I mean, I can't tell 7 you how many times because I don't remember. 8 Q. Okay. Well, when did the requests 9 first start coming in? 10 A. Several years ago. I can't say how far 11 back, but several years ago. 12 Q. And would you receive copies of the 13 production requests from the United States? 14 A. Yes. 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. Oh. Yes, I would for the information 18 that was pertaining to what they were asking us 19 to get. 20 Q. Okay. And how many times do you recall 21 receiving requests for production from the United 22 States?</p> | <p style="text-align: right;">Page 20</p> <p>1 information. I have -- You know, I have some 2 files with all of the information; but I don't 3 know how many times those requests came through. 4 Q. Okay. What did you do once you 5 received a request for information? 6 MS. CITERA: Objection, form. 7 BY THE WITNESS: 8 A. I would try to determine who might have 9 access to the information that was being 10 requested, contact that organization, and ask 11 them or that group or if it was, you know, the 12 product and price data, I would get in touch with 13 our IT department and ask them to start pulling 14 the data. 15 Q. Okay. Let's start with your IT 16 department. Who would you contact at your IT 17 department? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. I would most frequently contact Nancy 21 Carlson, and we would work together to determine 22 the appropriate individuals -- excuse me -- the</p> |
| <p style="text-align: right;">Page 19</p> <p>1 A. You know, I don't remember when it was 2 information for the United States or whether it 3 was information for Texas. I just would take the 4 requests and see what I could do about finding 5 the data and -- so that we could pull it. 6 Q. Okay. And you can't quantify how many 7 times? Just can you ballpark? Was it more than 8 25? 9 MS. CITERA: Objection, form. 10 BY THE WITNESS: 11 A. You know, I really don't know how many 12 times. 13 Q. Well, you can't even ballpark it? I 14 mean, approximately how frequently did you 15 receive them? Once a month? Once a week? 16 MS. CITERA: Objection to form. 17 BY THE WITNESS: 18 A. Well, certainly not once a month. I 19 would just say whenever those requests came in 20 and they were looking for information related to 21 HPD, I was the person who was contacted. And I 22 would try to determine where to go to get that</p> | <p style="text-align: right;">Page 21</p> <p>1 appropriate individuals to start gathering the 2 data. 3 Q. Okay. And who would some of those 4 individuals be? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. There was one person on her team who 8 was the main contact. That was Anna Mukkada. 9 Q. Can you spell that, please? 10 A. M U K K A D A. And then most 11 frequently we were subcontracting pulling the 12 data out to another company which I believe was 13 offshore. And they would actually pull the data, 14 pull the data for us, send it back to me, I'd 15 review it, a sample of it to make sure it was 16 what was being requested. Then they'd pull the 17 final data, and we would get all of the discs 18 together. And then I would get them to Abbott to 19 forward on to all of you. 20 Q. Okay. And what was the name of that 21 offshore company? 22 A. Cognizant.</p> |

6 (Pages 18 to 21)

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| <p style="text-align: right;">Page 22</p> <p>1 Q. And where are they based?</p> <p>2 A. I think they're in India, but I'm not</p> <p>3 sure.</p> <p>4 Q. And would they be provided with access</p> <p>5 to Hospira's databases?</p> <p>6 MS. CITERA: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. They had access to the historical</p> <p>9 information for both Abbott and the current</p> <p>10 Hospira information.</p> <p>11 Q. Okay. And what requests did they</p> <p>12 fulfill that you can recall, what data requests?</p> <p>13 A. All of the data requests that we've had</p> <p>14 for pulling indirect sales with all of the</p> <p>15 charge-back information, all of the wholesaler</p> <p>16 information; as part of Hospira, the information</p> <p>17 that we pulled for Texas for the Hospira direct</p> <p>18 and indirect sales since we became Hospira. And</p> <p>19 those I think are the most recent requests.</p> <p>20 Those are the ones that I remember, obviously</p> <p>21 have the greatest recollection of.</p> <p>22 Q. Okay. Other than the charge-back info,</p> | <p style="text-align: right;">Page 24</p> <p>1 and when was it completed?</p> <p>2 A. The Abbott or the Hospira?</p> <p>3 Q. Let's start with the Abbott.</p> <p>4 A. I think the last time we pulled sales -</p> <p>5 - sales information for Abbott was a year, year</p> <p>6 and a half ago. But I can't -- I mean, I can't</p> <p>7 remember the exact dates.</p> <p>8 Q. Okay. And when -- What's the time</p> <p>9 frame for the Abbott data that you have, the</p> <p>10 Abbott computer data that you have access to?</p> <p>11 MS. CITERA: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I'm not sure how far back it goes. I</p> <p>14 know that since all of the -- this litigation has</p> <p>15 started, nothing has been purged. So whatever we</p> <p>16 had at that point when all of that started, we've</p> <p>17 not purged anything. So however far back that</p> <p>18 went for the indirect data, we have that</p> <p>19 information as far as I know.</p> <p>20 Q. And that data that you have is the</p> <p>21 former Hospital Products Division data?</p> <p>22 A. The former Hospital Products Division</p> |
| <p style="text-align: right;">Page 23</p> <p>1 the wholesaler info, and the Hospira direct and</p> <p>2 indirect sales, any other data requests that were</p> <p>3 made to Cognizant at your direction?</p> <p>4 A. Any other -- Any other requests that</p> <p>5 we've received to pull sales data went through</p> <p>6 that process. And, you know, I'm talking about</p> <p>7 going back several years. So I can't remember</p> <p>8 all of the different data requests we received.</p> <p>9 But any one of them that we did receive went</p> <p>10 through that process.</p> <p>11 Q. When was the -- You indicated that the</p> <p>12 Hospira request was the last request. When did</p> <p>13 that come in?</p> <p>14 A. Last summer.</p> <p>15 Q. And when was it -- When did Cognizant</p> <p>16 complete the job?</p> <p>17 A. I believe we completed that in August.</p> <p>18 I believe that's when we provided the data for</p> <p>19 that.</p> <p>20 Q. Okay. And what about the indirect</p> <p>21 sales, the charge-back and wholesaler</p> <p>22 information? When did you receive that request,</p> | <p style="text-align: right;">Page 25</p> <p>1 indirect sales data.</p> <p>2 Q. Indirect sales data?</p> <p>3 A. Yes.</p> <p>4 Q. Do you have any other data?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY MS. ST. PETER-GRIFFITH:</p> <p>7 Q. Does the Hospital Products Division</p> <p>8 have any other computer -- I'm sorry.</p> <p>9 Does Hospira have any other historical</p> <p>10 computer data that is HPD computer information?</p> <p>11 MS. CITERA: Object to the form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I don't know the answer to that. I</p> <p>14 think that's probably a question that would have</p> <p>15 to be directed to our IT department. I'm not</p> <p>16 sure what -- what all we have in our files versus</p> <p>17 what Abbott has.</p> <p>18 Q. Well, when you initiate a request, what</p> <p>19 do you request?</p> <p>20 MS. CITERA: Objection to the form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. It depends what's being requested. The</p> |

7 (Pages 22 to 25)

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| <p style="text-align: right;">Page 26</p> <p>1 majority of the requests we've received have been 2 for sales data, and I've just kind of explained 3 to you the sales data process. But I'm not sure 4 about any other data. I know when we -- when we 5 received the requests for the flow -- the 6 organizational flow charts, I went to the various 7 organizations that we were requested to provide 8 that information for and they forwarded on what 9 they had. 10 Q. Okay. Do you know how complete that 11 information was concerning the sales force? 12 MS. CITERA: Objection to form. 13 BY THE WITNESS: 14 A. No, I don't. 15 Q. Okay. Do you have any sense of whether 16 you obtained, you know, a less significant amount 17 or a large percentage of the information 18 concerning the sales force? 19 MS. CITERA: Objection to the form. 20 BY THE WITNESS: 21 A. No, I don't. 22 Q. Okay. Do you know whether the computer</p> | <p style="text-align: right;">Page 28</p> <p>1 email files, whether Hospira has any historical 2 HPD email files? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. Again, I don't know the answer to that 6 question. 7 Q. Let me ask you, you were an Abbott HPD 8 employee prior to January 1, 2002, right? 9 A. Yes, I was. 10 Q. Did you utilize email? 11 A. Yes, I did. 12 Q. Okay. How frequently? 13 A. I think like everyone, we all have been 14 using email more and more over the last few 15 years. So I would guess that was a good piece of 16 the way people communicated and I communicated 17 with other people. 18 Q. Okay. So in 2001, is it fair to say 19 that you used it with some frequency? 20 A. Yes. 21 MS. CITERA: Objection to form. 22 BY MS. ST. PETER-GRIFFITH:</p> |
| <p style="text-align: right;">Page 27</p> <p>1 information, the historical computer information 2 for Hospital Products Division that -- Well, let 3 me ask you this: Why is the historical -- Why is 4 the request for the historical data or computer 5 information for Hospital Products Division being 6 directed to someone at Hospira? 7 MS. CITERA: Objection to form. 8 BY THE WITNESS: 9 A. I don't know -- I don't know that. I 10 know that when they're looking for information 11 that Abbott doesn't have, they ask me if I can 12 see what I can find. 13 Q. Okay. Well, do you have a sense as to 14 what -- Well, let me ask you: Is Hospira 15 maintaining computer records that contain Abbott 16 historical information? 17 MS. CITERA: Objection to the form. 18 BY THE WITNESS: 19 A. I can only respond to the sales data 20 that I know that we've been keeping. Anything 21 else, I'm not -- I can't answer the question. 22 Q. Okay. Do you know whether you have any</p> | <p style="text-align: right;">Page 29</p> <p>1 Q. Okay. What about 2000? 2 MS. CITERA: Objection to form. 3 BY MS. ST. PETER-GRIFFITH: 4 Q. Did you use email with some frequency? 5 A. Yes, I would say I did. 6 Q. What about in '99? Did you use email 7 with some frequency? 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. I would say yes. 11 Q. What about '98? Did you use email with 12 some frequency? 13 MS. CITERA: Same objection. 14 BY THE WITNESS: 15 A. We first had -- or I first had access 16 to email in 1992, and it was very limited. As 17 the years went on, it was used more frequently. 18 Q. Okay. But in '98, were you using it 19 with some frequency? 20 MS. CITERA: Objection to the form. 21 BY THE WITNESS: 22 A. Yes.</p> |

8 (Pages 26 to 29)

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| Page 30 | Page 32 |
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| <p>1 Q. Were you using it daily?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Were you using it daily in 1999</p> <p>4 through 2001?</p> <p>5 A. Yes.</p> <p>6 Q. Approximately how many times a day?</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I can't say how many emails I got or</p> <p>10 how many emails I wrote.</p> <p>11 Q. Was it a lot on a daily basis?</p> <p>12 MS. CITERA: Objection to the form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I don't know what you would consider a</p> <p>15 lot.</p> <p>16 Q. More than 50?</p> <p>17 A. I was just going to say, probably</p> <p>18 around 50.</p> <p>19 Q. Okay. What about in '97, '96 and '97?</p> <p>20 Were you using email with some frequency when you</p> <p>21 were an HPD employee?</p> <p>22 MS. CITERA: Objection to form.</p> | <p>1 BY THE WITNESS:</p> <p>2 A. I would say, again, probably 25 would</p> <p>3 be the max per day.</p> <p>4 Q. Okay. Is that true for '92 as well?</p> <p>5 MS. CITERA: Objection to the form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Probably less than for '92.</p> <p>8 Q. Okay. Is that just because you just</p> <p>9 started on the system?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Ma'am, you received the</p> <p>12 litigation hold memos -- or let me ask you --</p> <p>13 Strike that.</p> <p>14 Did you receive any litigation hold</p> <p>15 memos from Abbott's legal department when you</p> <p>16 were an Abbott employee?</p> <p>17 A. Yes.</p> <p>18 Q. When was the first year that you can</p> <p>19 recall receiving a litigation hold memo?</p> <p>20 MS. CITERA: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I cannot recall what year that was. I</p> |
| Page 31 | Page 33 |
| <p>1 BY THE WITNESS:</p> <p>2 A. I was using it on a daily basis.</p> <p>3 Probably the numbers at that point were below 50</p> <p>4 a day.</p> <p>5 Q. What about in '94 -- Well, if it's</p> <p>6 below 50 a day, can you guesstimate how -- Or I</p> <p>7 don't want you to guess actually. Do you have a</p> <p>8 recollection as to the general frequency that you</p> <p>9 used it on a daily basis?</p> <p>10 MS. CITERA: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. As I said, as the years went on, there</p> <p>13 was more communication through email. So I would</p> <p>14 say it was less than 50. Maybe somewhere between</p> <p>15 25 and 40 --</p> <p>16 Q. Okay.</p> <p>17 A. -- a day.</p> <p>18 Q. For the '95/96 time frame?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What about for the '94 -- '93</p> <p>21 and '94 time frame?</p> <p>22 MS. CITERA: Objection to the form.</p> | <p>1 just know that whenever -- when we received them,</p> <p>2 that's when we started holding files and not --</p> <p>3 and keeping them.</p> <p>4 Q. Okay. And do you recall whether or not</p> <p>5 you deleted emails if you -- if you received a</p> <p>6 litigation hold request?</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. After we received the litigation hold</p> <p>10 request, we didn't -- I don't recall deleting</p> <p>11 emails after that fact.</p> <p>12 Q. Okay.</p> <p>13 A. And I believe that our IT department</p> <p>14 was keeping all of them and backing everything up</p> <p>15 every day so that there was a record of them, of</p> <p>16 all emails.</p> <p>17 Q. Okay. Ma'am, do you know whether the</p> <p>18 historical data, any of the historical computer</p> <p>19 data at Hospira includes some of that backed up</p> <p>20 email information?</p> <p>21 MS. CITERA: Objection to the form.</p> <p>22 BY THE WITNESS:</p> |

9 (Pages 30 to 33)

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| <p style="text-align: right;">Page 34</p> <p>1 A. I don't know whether it does or it 2 doesn't. 3 Q. Have you ever checked? 4 A. No. 5 Q. Okay. Do you know whether anyone else 6 at Hospira has checked? 7 A. No, I do not. 8 Q. Is it fair to say that if an inquiry 9 came in concerning this litigation and the need 10 for data or information, that you would be the 11 person who would receive it? 12 MS. CITERA: Objection to the form. 13 BY THE WITNESS: 14 A. I have been the main contact for a lot 15 of the requests. I don't know whether I've been 16 the main contact for all of the requests. 17 Q. Okay. Do you know who else might have 18 been a contact for the requests? 19 A. For something like the IT information 20 of emails, that probably would have gone directly 21 to our IT department and not come to me. 22 Q. Okay. Would that -- Would that go to</p> | <p style="text-align: right;">Page 36</p> <p>1 Q. Okay. And have you had any 2 conversations with Mr. Carlin concerning whether 3 he's received requests? 4 A. No, I have not. 5 MS. CITERA: Objection, form. 6 BY MS. ST. PETER-GRIFFITH: 7 Q. Okay. I'd like to go back to where we 8 were before. Other than the sales data 9 information and the more recent Hospira 10 information, do you recall any other computer 11 information that you have requested that the IT 12 staff pull incident to any litigation? 13 MS. CITERA: Objection to the form. 14 BY THE WITNESS: 15 A. As I recall, the majority of -- the 16 information -- the information that I have worked 17 with our IT department to pull has been the sales 18 data that we've talked about. 19 Q. Okay. 20 A. Yeah. 21 Q. How long does it take to process a 22 request?</p> |
| <p style="text-align: right;">Page 35</p> <p>1 Nancy Carlson, then? 2 MS. CITERA: Objection to form. 3 BY THE WITNESS: 4 A. I'm not sure if Nancy would be the 5 right person for that. Nancy is the right person 6 for all the sales data. I'm not sure who it 7 would go -- who a request for all the email 8 files, et cetera, would go to. 9 Q. Okay. Well, if you received a request, 10 who would you go to at Hospira -- 11 MS. CITERA: Objection to the form. 12 BY MS. ST. PETER-GRIFFITH: 13 Q. -- to seek out the information in the 14 historical Abbott files? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. If I received that request, I would 18 probably go to the head of our IT department and 19 ask who the right person was to receive that. 20 Q. And who's the head of your IT 21 department? 22 A. Mike Carlin.</p> | <p style="text-align: right;">Page 37</p> <p>1 MS. CITERA: Objection to form. 2 BY MS. ST. PETER-GRIFFITH: 3 Q. Let me clarify. How long does it take 4 -- would it take to process a request that you 5 would make, take to the IT department concerning 6 getting some of this historical computer 7 information from Abbott, from the Abbott file? 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. I would guess the average amount of 11 time has been six -- six weeks or so. 12 Q. Okay. That's -- Do you recall making 13 any other requests -- I just want to exhaust your 14 memory on this. 15 Do you recall making any other requests 16 to your IT department for information related to 17 the AWP litigation that we haven't discussed so 18 far? 19 MS. CITERA: Objection to the form. 20 BY THE WITNESS: 21 A. No, I don't. I don't recall any other 22 instances.</p> |

10 (Pages 34 to 37)

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| <p style="text-align: right;">Page 38</p> <p>1 Q. Okay. Now, let's jump back a little</p> <p>2 bit. You said that you would determine once you</p> <p>3 received a request where you would need to go to</p> <p>4 request it. Is that fair to say?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. Other than the IT department,</p> <p>7 who would you go to to seek information?</p> <p>8 MS. CITERA: Objection to the form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Well, for instance, when we received</p> <p>11 those requests for the organizational flow</p> <p>12 charts, they were requests for flow charts not</p> <p>13 just for the Alternate Site sales force but there</p> <p>14 were requests in that included for the marketing</p> <p>15 organizations and -- I think it was mostly the</p> <p>16 marketing organizations. And so I went to the</p> <p>17 various organizations and asked them to get me</p> <p>18 copies of any of the org charts that they had on</p> <p>19 file, and that was essentially what I did. So to</p> <p>20 each one of those marketing organizations.</p> <p>21 Q. Let me ask you, in terms of determining</p> <p>22 what was responsive to the request, who would be</p> | <p style="text-align: right;">Page 40</p> <p>1 A. In the case of the Alt Site</p> <p>2 organization charts, I went to whoever was -- who</p> <p>3 -- the individual the general manager who was in</p> <p>4 charge of Alt Site. I went to the marketing</p> <p>5 managers and, in most cases, they would have</p> <p>6 their administrative assistants pull whatever</p> <p>7 organizational charts they had on file.</p> <p>8 Q. Okay. Would those be in the current</p> <p>9 Hospira files?</p> <p>10 MS. CITERA: Objection to the form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Whatever Abbott information was still</p> <p>13 in those current Hospira files is what they</p> <p>14 pulled for me.</p> <p>15 Q. Okay. Let me ask you, at Hospira, do</p> <p>16 you have any hard files, paper files that are</p> <p>17 former -- that were formerly HPD Abbott files?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I'm not sure I understand the question.</p> <p>21 Q. Okay. The -- Let me rephrase it, then.</p> <p>22 Do you know whether when you would ask</p> |
| <p style="text-align: right;">Page 39</p> <p>1 -- who would be the person making that</p> <p>2 determination? Would it be you, or would you</p> <p>3 have somebody telling you what information you</p> <p>4 needed to look for?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I believe that the majority of the</p> <p>8 requests as they came to us from Abbott, they</p> <p>9 were telling me what they needed. And I was</p> <p>10 trying to pull the data based on those requests.</p> <p>11 Q. Okay. How would you know that you got</p> <p>12 it all?</p> <p>13 MS. CITERA: Objection to the form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I could only trust that when I asked</p> <p>16 individuals to give me everything they had that</p> <p>17 they were doing that.</p> <p>18 Q. Okay. And who were the individuals in</p> <p>19 particular that you would contact to pull</p> <p>20 information?</p> <p>21 MS. CITERA: Objection to the form.</p> <p>22 BY THE WITNESS:</p> | <p style="text-align: right;">Page 41</p> <p>1 that requests be made if anyone searched any</p> <p>2 noncurrent Hospira files?</p> <p>3 MS. CITERA: Objection to the form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Well, if I was asking them to pull data</p> <p>6 from our Abbott days, then they were pulling from</p> <p>7 files that preceded our becoming Hospira.</p> <p>8 Q. And where are those files maintained?</p> <p>9 A. Each organization has their own file</p> <p>10 areas.</p> <p>11 The other thing, and I didn't even</p> <p>12 think about this, the other piece of information</p> <p>13 that I've taken the lead on is whenever anybody</p> <p>14 has asked for copies of all of our contracts and</p> <p>15 our Contract Marketing files; and we have that</p> <p>16 file history in our Contract Marketing department</p> <p>17 or in our central records area. So we've also --</p> <p>18 we also have all of that information, and we've</p> <p>19 pulled that. I just thought of it now, and I</p> <p>20 didn't want to leave that out.</p> <p>21 Q. Okay. The -- Well, are the former HPD</p> <p>22 files maintained as part of Hospira's current</p> |

11 (Pages 38 to 41)

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| <p style="text-align: right;">Page 42</p> <p>1 file system?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. For contract files for contracts that</p> <p>5 expired when we were a part of Abbott, Abbott has</p> <p>6 all of those files. The current files we have</p> <p>7 for contracts are contracts that may have been</p> <p>8 initiated when we were a part of Abbott but</p> <p>9 became Hospira contract files, and so Hospira is</p> <p>10 maintaining those files.</p> <p>11 Q. Okay. So is it fair to say that if a</p> <p>12 contract was closed, closed out, and the contract</p> <p>13 was no longer in place that at the time of the</p> <p>14 spin, those particular files stayed at Abbott;</p> <p>15 but if there was an ongoing contractual</p> <p>16 obligation, those files went with Hospira at the</p> <p>17 time of the spin?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Other than the Contract</p> <p>20 Marketing files, what other files does Hospira</p> <p>21 have that are former HPD files?</p> <p>22 MS. CITERA: Objection to the form.</p> | <p style="text-align: right;">Page 44</p> <p>1 organization, and you looked for the Alt Site</p> <p>2 sales force. What other document searches have</p> <p>3 you done?</p> <p>4 MS. CITERA: Objection to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Those are all -- Those are all the</p> <p>7 document searches I can recall being involved in.</p> <p>8 Q. Okay. And do you remember which</p> <p>9 general managers and who these particular</p> <p>10 marketing managers were that you spoke with in</p> <p>11 looking for this information?</p> <p>12 A. I believe I spoke with Sean O'Donnell</p> <p>13 for Alternate Site -- Actually, I believe in that</p> <p>14 case, I went directly to his administrative</p> <p>15 assistant.</p> <p>16 Q. And who is that?</p> <p>17 A. Patricia Castor.</p> <p>18 Q. And then was Ms. Castor then</p> <p>19 responsible for identifying and pulling the</p> <p>20 responsive documents?</p> <p>21 A. Yes, she pulled what she could find.</p> <p>22 And I believe Sean was aware she was doing that</p> |
| <p style="text-align: right;">Page 43</p> <p>1 BY THE WITNESS:</p> <p>2 A. I don't know. I can only -- I can only</p> <p>3 speak to what I know about the Contract Marketing</p> <p>4 files. I'm not sure what any other organization</p> <p>5 has done or where their files went when we spun</p> <p>6 off from Abbott.</p> <p>7 Q. Okay. When you say "any other</p> <p>8 organization," what are you talking about?</p> <p>9 A. Like the marketing organizations. We</p> <p>10 were talking about them a few minutes ago. Or</p> <p>11 any other -- any other departments within</p> <p>12 Hospira.</p> <p>13 Q. Okay. But -- Well, did anyone else</p> <p>14 make requests of them for documents responsive to</p> <p>15 discovery requests in the AWP litigation other</p> <p>16 than you?</p> <p>17 MS. CITERA: Objection to the form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. You said -- You indicated that</p> <p>21 you went to the Contract Marketing files. You</p> <p>22 also spoke with individuals within the marketing</p> | <p style="text-align: right;">Page 45</p> <p>1 based on the requests that I had given. So it</p> <p>2 was at -- I mean, Sean was aware; and they were</p> <p>3 pulling it for -- I believe that we went to the</p> <p>4 Specialty Pharmaceutical Group which at that time</p> <p>5 reported to Tom Moore.</p> <p>6 Q. When you say "at the time," do you</p> <p>7 recall when approximately that was?</p> <p>8 A. It was a couple of years ago when we</p> <p>9 received those requests for those org charts.</p> <p>10 Q. Do you recall going to anybody else</p> <p>11 other than Mr. Moore and Ms. Castor and Mr.</p> <p>12 O'Donnell's department?</p> <p>13 A. I'm trying to remember if there was</p> <p>14 anybody else, but I think that -- I think they</p> <p>15 were the individuals I went to, went to.</p> <p>16 Q. Okay. And how many times did you go to</p> <p>17 them?</p> <p>18 A. I made the initial request and kept in</p> <p>19 contact with them until they were able to find --</p> <p>20 until they got to me whatever they could find in</p> <p>21 the way of the data.</p> <p>22 Q. Okay. Did anyone like a lawyer or any</p> |

12 (Pages 42 to 45)

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| <p style="text-align: right;">Page 46</p> <p>1 other -- a paralegal supervise the pulling of the 2 documents by Ms. Castor and somebody in Mr. 3 Moore's department? 4 A. I believe the paralegals that we were 5 working with at Abbott knew who I contacted 6 because I kept them apprised of where they were 7 in the process. 8 Q. Okay. So they knew who you had 9 contacted. But it was up to the secretary or the 10 administrative assistant and somebody in Mr. 11 Moore's department to actually pull the 12 documents? 13 MS. CITERA: Objection to form. 14 BY THE WITNESS: 15 A. Yeah. As I understand it, that was the 16 process that we followed. 17 Q. Okay. How do you know they didn't miss 18 anything? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. I don't know that they did. All I can 22 do is, you know, say that I asked them to pull</p> | <p style="text-align: right;">Page 48</p> <p>1 within Hospira's custody and control? 2 MS. CITERA: Objection to the form. 3 BY THE WITNESS: 4 A. Are you asking whether Abbott has 5 Hospira files or whether the same information 6 that Hospira may have in the historical files, 7 does Abbott have copies of it? 8 Q. Actually, that's a fair distinction. 9 What I was asking was -- Well, first, do you know 10 whether Abbott has copies of that information? 11 A. I don't know whether Abbott has copies 12 of that information. 13 Q. Okay. Does Abbott have access or a way 14 to access that computer information other than 15 making a request of you? 16 MS. CITERA: Objection to the form. 17 BY MS. ST. PETER-GRIFFITH: 18 Q. Or someone at Hospira? 19 A. Abbott cannot -- Abbott does not have 20 access to any of Hospira's records or files since 21 we became Hospira. 22 Q. Okay. So if Abbott, then, did not keep</p> |
| <p style="text-align: right;">Page 47</p> <p>1 everything that they could find, and that's what 2 they said they did. 3 Q. Okay. Ma'am, in talking about this a 4 little bit more, do you have any -- do you have a 5 better recollection as to how many requests you 6 responded to? 7 A. No -- 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. No, because there have been so many 11 different requests over the years that I just -- 12 I don't recall, you know, all of the requests 13 that we've received. 14 Q. Does Abbott have access to its 15 historical computer information that is currently 16 in Hospira's possession, custody, and control? 17 MS. CITERA: Objection to the form. 18 BY THE WITNESS: 19 A. Could you ask that question again? 20 Q. Sure. 21 Does Abbott have access to the 22 historical computer information that is in --</p> | <p style="text-align: right;">Page 49</p> <p>1 copies of your computer information, of your 2 historical computer -- like, for example, the 3 sales data, et cetera, the searches that you had 4 run, then the only place to look for it is at -- 5 is within Hospira's historic HPD records; is that 6 fair? 7 MS. CITERA: Objection to the form. 8 BY THE WITNESS: 9 A. I don't think that's accurate. I 10 believe that based on receiving all of the 11 requests that we've received, that Abbott has 12 kept all of the historical HPD data that was when 13 we were HPD. 14 Q. Okay. 15 A. I believe that they would have that 16 simply because of the requests and having to keep 17 everything. I can't imagine that they -- and I 18 guess I'm speculating when I'm saying that, so 19 ... 20 Q. Well, you knew, for example, that they 21 had litigation hold memos, right? 22 A. Right, yes. And that's why I'm making</p> |

13 (Pages 46 to 49)

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| <p style="text-align: right;">Page 50</p> <p>1 -- That's why I guess I'm speculating that they 2 have all that information. 3 Q. Do you know why, then, they would make 4 the request of you or of Hospira? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. No, I don't know why. 8 Q. Okay. 9 A. I know that for the indirect sales 10 data, Abbott does not have the indirect sales 11 data. Hospira has all of it. 12 Q. Do you know why at the time of the 13 spin, given that there's a litigation hold memo, 14 why Abbott wouldn't preserve that? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. I don't know why Hospira has that data 18 and not Abbott. 19 Q. Well, was there any discussion at the 20 time of the spin that you can recall about what 21 information needed to be preserved incident to 22 the litigation hold memo?</p> | <p style="text-align: right;">Page 52</p> <p>1 MS. CITERA: Objection to the form. 2 BY THE WITNESS: 3 A. Is what possible? 4 Q. Is it possible that Hospira currently 5 has former HPD files that Abbott did not retain 6 or retain copies of? 7 MS. CITERA: Objection to the form. 8 BY THE WITNESS: 9 A. Again, I don't know the answer to that 10 because I don't know, as I said a couple minutes 11 ago, when we did the spin, what it was determined 12 that was going to stay in the Hospira files 13 versus the Abbott files. 14 Q. Okay. To your knowledge, other than 15 the administrative assistants, Ms. Castor, and 16 somebody -- Well, first let me ask you -- Strike 17 that question. 18 Do you know who in Mr. Moore's unit did 19 the searching for documents? 20 A. I don't recall. 21 Q. Other than Mr. Moore's unit and Ms. 22 Castor, do you recall any -- someone from Mr.</p> |
| <p style="text-align: right;">Page 51</p> <p>1 MS. CITERA: I'm going to object to the 2 form. I'm also going to caution you not to 3 reveal any conversations with counsel. 4 BY THE WITNESS: 5 A. I don't know how the decisions were 6 made when we did the spin regarding what 7 information Hospira was going to maintain and 8 what information Abbott was going to maintain. 9 So I wasn't involved in those discussions. 10 Q. Okay. Who was, do you know? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. No, I don't. 14 Q. Does Hospira currently maintain any 15 other computer or hard copy files that you're 16 aware of that are former Abbott HPD files that 17 Abbott does not have copies of? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. I can't answer the question. I don't 21 know. 22 Q. Okay. Is it possible?</p> | <p style="text-align: right;">Page 53</p> <p>1 Moore's unit and Ms. Castor, do you recall anyone 2 else searching for Abbott or Hospira documents 3 pursuant to a request that you made? 4 A. And, again, my request when I went to 5 Sean O'Donnell and Tom Moore was strictly related 6 to organizational charts. So I don't know about 7 requests for any other documents. And I can't 8 recall -- I don't believe I spoke with anybody 9 else about organizational charts. 10 Q. Okay. Other than the organizational 11 charts, have you asked anyone to search for any 12 noncomputer records? 13 A. No. Except -- 14 Q. Okay. So the only searches, then, 15 you've done are searches -- searches you've 16 requested are searches of the computer 17 information, which included Hospira information 18 as well as historic Abbott information, and then 19 you've asked for searches of the hard copies of 20 the org charts; is that fair? 21 MS. CITERA: Objection to the form. 22 BY THE WITNESS:</p> |

14 (Pages 50 to 53)

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| <p style="text-align: right;">Page 54</p> <p>1 A. Yes, and the contract files from 2 Contract Marketing. 3 Q. Okay. And who did you make the request 4 for the search of Contract Marketing files to? 5 A. I was in Contract Marketing at the 6 time, so I actually directed the requests to the 7 people in our file room to pull files. 8 Q. Okay. And who did you make that 9 request to? 10 A. It was actually Jeri Parkhanan. She's 11 the supervisor in charge of the file room. 12 Q. Okay. Anybody else? 13 A. Well, and her boss, Joe Brunza. 14 Q. Okay. Anybody else? 15 A. No, but we really marked as an 16 organization to pull all of the files. I mean, 17 there was a group effort within Contract 18 Marketing to pull copies of all the contracts 19 that we could find for all of the customers based 20 on the requests we received. 21 Q. Okay. And do you recall which 22 contracts you pulled?</p> | <p style="text-align: right;">Page 56</p> <p>1 know, this sort of community effort of pulling 2 hundreds of contracts occur? 3 A. I actually think we've pulled contract 4 files several times. I mean, I think we pulled 5 files in the late '90s and we pulled again in the 6 2002/2003 time frame. And I think we've pulled 7 some files since then also. 8 Q. When you say "since then," when 9 specifically? 10 A. I'm thinking -- 11 MS. CITERA: Objection to the form. 12 BY THE WITNESS: 13 A. I'm thinking maybe in the last two 14 years we've pulled some additional contract 15 files. 16 Q. When was the last time that you pulled 17 contract files? 18 A. I think it's, like, 2005 time frame. 19 Q. Okay. So since 2005, you haven't 20 pulled any contract files? 21 MS. CITERA: Objection to the form. 22 BY THE WITNESS:</p> |
| <p style="text-align: right;">Page 55</p> <p>1 MS. CITERA: Object to the form. 2 BY THE WITNESS: 3 A. There were hundreds of contracts that 4 we pulled. 5 Q. Okay. And do you recall the nature of 6 the contracts that you pulled? 7 MS. CITERA: Objection. 8 BY MS. ST. PETER-GRIFFITH: 9 Q. Were they Alt Site? Were they Home 10 Infusion? 11 A. They were Alt Site and then hospital 12 contracts that -- where there could have been 13 Alternate Site sales based on that organization 14 having an entity that could have been in the 15 nonhospital market, including the major group 16 purchasing organizations. 17 Q. Okay. And who set that criteria? 18 A. It was the criteria that we received 19 from Abbott. 20 Q. Okay. From Abbott in-house counsel? 21 A. Yes. 22 Q. Okay. And when did this pulling, you</p> | <p style="text-align: right;">Page 57</p> <p>1 A. Not that I recall. 2 Q. Okay. And when you say that you've 3 pulled some in the late '90s and the 2002 to 2003 4 time period, I'm assuming you mean when you were 5 with HPD? 6 A. Yes. 7 Q. At Abbott? 8 A. Yes. 9 Q. And why did you pull those files in the 10 late '90s and in 2002 and 2003? 11 A. I believe that's when we started to 12 receive the original requests for files for all 13 of the litigation, and we were pulling those 14 files in response to those requests. 15 Q. And who did you give those files to? 16 A. We gave them to Abbott. 17 Q. When you say "Abbott," you mean Abbott 18 in-house counsel? 19 A. Abbott in-house counsel, yes. 20 Q. Can you think of any other documents 21 that you have searched for that you -- oh, let me 22 -- Strike that.</p> |

15 (Pages 54 to 57)

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| <p style="text-align: right;">Page 58</p> <p>1 In the late '90s and 2002, 2003, did 2 you participate in the pulling of -- the search 3 for contracts? 4 A. In the late '90s, I participated in 5 pulling Alternate Site files because that's where 6 I was at the time. 7 Q. Okay. 8 A. For the files that have been pulled 9 since then -- and again Alternate Site by that 10 time had been incorporated -- all the Alternate 11 Site contract files had been incorporated by that 12 time into HPD Contract Marketing, so I 13 participated in pulling all of those files in the 14 early 2000s when we pulled them. 15 Q. Okay. And do you think that you pulled 16 all the contracts responsive to what you were 17 asked to pull? 18 MS. CITERA: Objection, form. 19 BY THE WITNESS: 20 A. I think that we have pulled everything 21 that's been requested. 22 Q. And when the contracts were pulled,</p> | <p style="text-align: right;">Page 60</p> <p>1 A. I'm not sure I understand the question. 2 Q. Okay. Let me ask you this: What's 3 your document retention policy? 4 MS. CITERA: Okay. I'm just going to 5 object. I mean, I'm fine with her answering as 6 it relates to Abbott files; but this is not about 7 Hospira, and it shouldn't relate to Hospira 8 files. 9 MS. ST. PETER-GRIFFITH: Oh, sure it 10 does. 11 MS. CITERA: No, it doesn't. 12 MS. ST. PETER-GRIFFITH: You people are 13 not responding to a subpoena, and we're going to 14 get into that. 15 MS. CITERA: This is an Abbott -- This 16 is taken in an Abbott case. Hospira is not a 17 defendant. She can talk about Hospira as it 18 relates to Abbott's policies, she cannot talk 19 about Hospira's policies. 20 MR. ANDERSON: Well, this is a fact 21 deposition. 22 MS. ST. PETER-GRIFFITH: This is a fact</p> |
| <p style="text-align: right;">Page 59</p> <p>1 were they pulled and copied and given to in-house 2 legal department? Or did you just give them the 3 originals of what you had? 4 A. They actually took the files, copied 5 them, and returned them to us. 6 Q. Okay. So you have copies, then -- or 7 they have copies of what you have? 8 A. Correct. 9 Q. Okay. And are those documents that are 10 the historic contract files still with Hospira? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. Again, if it was a contract that 14 expired while we were still part of Abbott, it's 15 in their central records area. If it's something 16 that started then but continued into our -- after 17 the spin, then Hospira has it. 18 Q. Okay. And you haven't -- Does Hospira 19 have a document retention policy? 20 A. Yes, we do. 21 Q. Okay. And do you have a particular -- 22 a policy pertaining to former Abbott files?</p> | <p style="text-align: right;">Page 61</p> <p>1 deposition, Toni. I'm not looking for her to 2 speak as a corporate representative. 3 MS. CITERA: First of all, Judge Bowler 4 has already said you can't get into discovery 5 past 2003. So that's yet another reason why what 6 Hospira's -- Hospira's retention policies as it 7 relates to Hospira's documents is not 8 appropriate. 9 MS. ST. PETER-GRIFFITH: You know, we 10 can agree to disagree on that, Toni. Can I 11 proceed with my questioning? 12 MS. CITERA: As it relates to the 13 Hospira, yes -- I mean, as it relates to Abbott, 14 yes. 15 MS. ST. PETER-GRIFFITH: Are you 16 instructing her not to answer? 17 MS. CITERA: Yes. 18 MS. ST. PETER-GRIFFITH: Why? What's 19 the basis of your instruction not to answer? 20 MS. CITERA: Because it's not related 21 to this case. Hospira is not a defendant here. 22 MS. ST. PETER-GRIFFITH: Do you have a</p> |

16 (Pages 58 to 61)

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| <p style="text-align: right;">Page 62</p> <p>1 privilege assertion?</p> <p>2 MS. CITERA: No.</p> <p>3 MS. ST. PETER-GRIFFITH: Okay. Then</p> <p>4 when we fly back to get answers to this question,</p> <p>5 it's going to be on Abbott's dime. Moreover, are</p> <p>6 you directing her not to answer because you're</p> <p>7 representing her?</p> <p>8 MS. CITERA: I am representing her and</p> <p>9 the defendant.</p> <p>10 MS. ST. PETER-GRIFFITH: Okay. And who</p> <p>11 are the defendants?</p> <p>12 MS. CITERA: Abbott.</p> <p>13 MS. ST. PETER-GRIFFITH: Okay. So</p> <p>14 you're not representing her as a Hospira</p> <p>15 employee?</p> <p>16 MS. CITERA: I am representing the</p> <p>17 witness.</p> <p>18 MS. ST. PETER-GRIFFITH: Okay.</p> <p>19 MS. CITERA: I also obviously represent</p> <p>20 Hospira in other matters.</p> <p>21 BY MS. ST. PETER-GRIFFITH:</p> <p>22 Q. Ms. Leone, let me ask you this: Did</p> | <p style="text-align: right;">Page 64</p> <p>1 A. I have not received any requests to</p> <p>2 pull data relating to that that I recall.</p> <p>3 Q. If Hospira received a subpoena from the</p> <p>4 United States requesting the production of all</p> <p>5 former Abbott HPD information, who would you</p> <p>6 anticipate that that request would go to?</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I expect it would go to our in-house</p> <p>10 counsel, and they would determine who to ask to</p> <p>11 start pulling that data.</p> <p>12 Q. Do you anticipate that you would be one</p> <p>13 of the people that they would request given your</p> <p>14 historic role?</p> <p>15 MS. CITERA: Object to the form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I would guess I would probably be</p> <p>18 included as one of the people that they would</p> <p>19 ask.</p> <p>20 Q. Okay. Other than what we've talked</p> <p>21 about here today, do you recall any other</p> <p>22 involvement in responding to or seeking requests</p> |
| <p style="text-align: right;">Page 63</p> <p>1 the files that used to be Abbott HPD files, do</p> <p>2 they -- are they maintained under the current</p> <p>3 Hospira document retention policy?</p> <p>4 MS. CITERA: Objection to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Yes, they are.</p> <p>7 Q. Okay. And what is that policy?</p> <p>8 A. I believe that the policy is seven</p> <p>9 years; but I also believe that based on the</p> <p>10 litigation, nothing is being destroyed.</p> <p>11 Everything is being maintained.</p> <p>12 Q. Okay. Do you recall whether Hospira</p> <p>13 has received a subpoena from the United States?</p> <p>14 Are you aware of any subpoena that Hospira has</p> <p>15 received from the United States?</p> <p>16 A. I am not aware that Hospira has</p> <p>17 received a subpoena from the United States.</p> <p>18 Q. Has anyone asked you to search for</p> <p>19 documents to respond to a subpoena that has been</p> <p>20 served upon Hospira by the United States?</p> <p>21 MS. CITERA: Objection to the form.</p> <p>22 BY THE WITNESS:</p> | <p style="text-align: right;">Page 65</p> <p>1 for information responsive to discovery requests</p> <p>2 in the AWP litigation?</p> <p>3 MS. CITERA: Objection to the form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I've -- I think I've -- Everything that</p> <p>6 I can remember I think I've identified.</p> <p>7 Q. Okay. So we've exhausted your memory</p> <p>8 on that?</p> <p>9 MS. CITERA: Objection to the form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Yeah, I think so.</p> <p>12 Q. Okay. Ma'am, I don't think this</p> <p>13 question was asked at your first deposition; so</p> <p>14 I'd like to briefly go over what your educational</p> <p>15 background is.</p> <p>16 A. I have an MBA.</p> <p>17 Q. Okay. And when did you obtain your</p> <p>18 MBA?</p> <p>19 A. In 1996.</p> <p>20 Q. And where did you obtain it from?</p> <p>21 A. Northern Illinois University.</p> <p>22 Q. Okay. And what is your undergraduate</p> |

17 (Pages 62 to 65)

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| <p style="text-align: right;">Page 66</p> <p>1 degree?</p> <p>2 A. It's a degree in general studies from</p> <p>3 Roosevelt University in Chicago.</p> <p>4 Q. Okay. And when did you receive that?</p> <p>5 A. 1991.</p> <p>6 Q. And do you have any other educational</p> <p>7 degrees, or have you taken any other course work?</p> <p>8 A. No.</p> <p>9 Q. Ma'am, do you have any educational</p> <p>10 background in Medicare- or Medicaid-related</p> <p>11 areas?</p> <p>12 MS. CITERA: Objection to the form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. Nothing educational.</p> <p>15 Q. Okay. Just on-the-job?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Well, we're going to get into</p> <p>18 that. But do you have any -- I want to ask you</p> <p>19 whether you have any training or any educational</p> <p>20 background in the medical field.</p> <p>21 A. No.</p> <p>22 Q. Ma'am, I'm going to ask you a series of</p> | <p style="text-align: right;">Page 68</p> <p>1 time period of 1991 to 2003.</p> <p>2 MS. CITERA: Objection to the form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I'm not sure what you're asking for.</p> <p>5 Q. Well, I'd like to know what you know</p> <p>6 about the sale and marketing of those products.</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. The dextrose and the saline -- I'm</p> <p>10 sorry. Let me just remember. Dextrose, saline,</p> <p>11 Vanco, acyclovir -- was there a fifth product?</p> <p>12 Q. Sterile water.</p> <p>13 A. Sterile water.</p> <p>14 The dextrose, saline and sterile water</p> <p>15 are part of the IV solutions line that Hospira</p> <p>16 sold; and they're used in -- they're used as</p> <p>17 basic IV solutions.</p> <p>18 Q. Okay. Ma'am, I'm going to stop right</p> <p>19 there because you said Hospira.</p> <p>20 A. I'm sorry. Abbott.</p> <p>21 Q. Okay. I just wanted to clarify.</p> <p>22 A. And vancomycin and acyclovir are what</p> |
| <p style="text-align: right;">Page 67</p> <p>1 questions, and I'm going to predicate my series</p> <p>2 of questions upon -- I want you to -- when you</p> <p>3 respond, I'd like for you to respond for the time</p> <p>4 period of 1991 until 2003. Okay?</p> <p>5 A. Okay.</p> <p>6 Q. Ma'am, do you have any familiarity with</p> <p>7 the sale and marketing or any knowledge or</p> <p>8 familiarity with the sale and marketing of any of</p> <p>9 the following products: sodium chloride, sterile</p> <p>10 water, vancomycin, dextrose, or acyclovir by</p> <p>11 Abbott?</p> <p>12 MS. CITERA: Objection to the form.</p> <p>13 You went through them kind of fast. Did you get</p> <p>14 them all?</p> <p>15 THE WITNESS: Yes.</p> <p>16 MS. CITERA: Okay.</p> <p>17 BY THE WITNESS:</p> <p>18 A. All of those are products that were</p> <p>19 sold by the Hospital Products Division.</p> <p>20 Q. Okay. Ma'am, I'd like you just to</p> <p>21 describe for me what your knowledge is concerning</p> <p>22 the sale and marketing of those products for the</p> | <p style="text-align: right;">Page 69</p> <p>1 we consider specialty pharmaceuticals or</p> <p>2 injectables. And, again, they were sold as part</p> <p>3 of our injectables product line as Abbott HPD.</p> <p>4 And the -- Obviously, or maybe not</p> <p>5 obviously, when people are doing an infusion of</p> <p>6 vancomycin or acyclovir, they're mixed with most</p> <p>7 frequently sodium chloride for those infusions.</p> <p>8 And it would probably be one of the -- one of the</p> <p>9 sizes of sodium chloride that we sell of the IV</p> <p>10 solutions because we also have -- HPD also had</p> <p>11 some pharmacy injectables that were sodium</p> <p>12 chloride and some pharmacy injectables that were</p> <p>13 water also, sterile water, which is small vials -</p> <p>14 - 10 mls, 20 mls, 30 mls, and so on. We looked</p> <p>15 at the IV solutions as being -- the smallest one</p> <p>16 would be 150 mls up to 1 liter.</p> <p>17 Does that answer your question?</p> <p>18 Q. Okay. Well, I think it may be a start.</p> <p>19 My question was more what do you know about</p> <p>20 Abbott's -- for the time period of '91 to 2003,</p> <p>21 what is your knowledge of what Abbott's, you</p> <p>22 know, policies, practices, procedures were, if</p> |

18 (Pages 66 to 69)

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| <p style="text-align: right;">Page 70</p> <p>1 you have any knowledge, of it concerning the sale 2 and marketing of these particular products? 3 MS. CITERA: Objection to the form. 4 BY THE WITNESS: 5 A. Well, from 1991 to 1996, I was in Home 6 Infusion Services and so those products were sold 7 as part of the Home Infusion Services programs. 8 And then from '96 to 2001, when I was in 9 Alternate Site, they were selling those products 10 as individual products based on the full 11 portfolio of the products that we would offer to 12 a customer on a contract. It was highly unlikely 13 that we were writing a contract for just one of 14 those products. It was always in conjunction 15 with the full product line or, say, the IV 16 solutions as a contract with probably IV 17 equipment to go along with it and then maybe a 18 separate agreement for the injectables, which 19 would have been the vancomycin and acyclovir. 20 And 2001 to 2003, I was -- part of that 21 time I was on special projects. And then by 22 2003, I was back in Contract Marketing as part of</p> | <p style="text-align: right;">Page 72</p> <p>1 would be providing -- we would be working with 2 the insurance companies and other payors in order 3 to be reimbursed for the services. 4 And under those circumstances, those 5 products were part of a therapy that a patient 6 could have been on. They could have been on say, 7 for instance, an enteral therapy or a total -- 8 TPN therapy or IV antibiotic. And these, again, 9 would have all been in the home setting. And we 10 were working with those partners to provide those 11 services. 12 Q. Okay. And when you say "partners" -- 13 Well, let me ask you this: Initially you said 14 the products were sold as part of. Were they 15 consigned to the home infusion partners? 16 A. Yes. 17 MS. CITERA: Objection to the form. 18 BY THE WITNESS: 19 A. Yeah, and that's probably what I should 20 have said -- 21 Q. Okay. 22 A. -- is that they were under most</p> |
| <p style="text-align: right;">Page 71</p> <p>1 the Hospital Business Sector. And, again, they 2 were selling it in the hospitals as part of the 3 full product line, those products. 4 Q. Okay. Do you have any other knowledge 5 of Abbott's sale and marketing of these 6 particular products during the '91 through '03 7 time period? 8 MS. CITERA: Object to the form. 9 BY THE WITNESS: 10 A. I mean, that's the high-level, you 11 know, description of how they were sold. I'm not 12 sure what else -- 13 Q. Okay. Well, let's go down on that a 14 little bit. First of all, you said products sold 15 as part of the HI program. Which is the home 16 infusion program? 17 A. The home infusion program was when we 18 were selling Abbott products with the services 19 that could be provided through the home infusion 20 program. We had a system, the CHIP system. We 21 could provide reimbursement services where -- 22 excuse me -- on behalf of one of the partners, we</p> | <p style="text-align: right;">Page 73</p> <p>1 circumstances provided as a -- on a consignment 2 basis. 3 Q. Okay. And do you recall what the 4 overall market -- Strike that. 5 Well, what else do you recall about 6 this consignment program? 7 MS. CITERA: Objection to the form. 8 BY THE WITNESS: 9 A. If -- If there were Abbott products, 10 Abbott HPD products, that could be used for the 11 therapies that were being provided by those 12 partners, they had the option to use those 13 products in their infusion therapy program -- in 14 their home infusion programs. And that was -- 15 that was what we considered the consignment piece 16 of it. 17 Q. Okay. How did Abbott get -- How was 18 Abbott compensated under these arrangements? 19 A. Under most circumstances, those 20 programs were written -- were created or the 21 arrangements were set up in that as they were -- 22 as the partners were reimbursed by the payors for</p> |

19 (Pages 70 to 73)

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| <p style="text-align: right;">Page 74</p> <p>1 the services, there would be a sharing of that</p> <p>2 reimbursement from the payors.</p> <p>3 Q. Okay. And by "payors," did that</p> <p>4 include Medicare and Medicaid?</p> <p>5 A. Yes.</p> <p>6 Q. Did Abbott have its own provider</p> <p>7 number, to your knowledge?</p> <p>8 A. Yeah, Abbott had its own provider</p> <p>9 number because when Home Infusion Services</p> <p>10 originally started in the mid 1980s, the majority</p> <p>11 of the patients we had in those early days were</p> <p>12 Abbott patients. So it was our own -- we were</p> <p>13 billing -- We were doing everything as Abbott</p> <p>14 Home Infusion Services.</p> <p>15 And then the programs -- Then the</p> <p>16 direction changed in the late, late '80s to where</p> <p>17 we started partnering with hospital programs.</p> <p>18 Q. Do you know initially were those</p> <p>19 partnerships joint venture arrangements?</p> <p>20 MS. CITERA: Objection to the form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I'm not sure what you mean by a joint</p> | <p style="text-align: right;">Page 76</p> <p>1 I can't give you an exact date.</p> <p>2 Q. Do you know whether any partners ever</p> <p>3 raised with Abbott a concern about whether or not</p> <p>4 these arrangements violated Medicare or Medicaid</p> <p>5 statutes or regulations or the Antikickback</p> <p>6 Statute or the False Claims Act?</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. No, I do not know that.</p> <p>10 Q. Did Abbott ever loan its -- or provide</p> <p>11 its provider number to its partners so that the</p> <p>12 partners could bill under the Abbott provider</p> <p>13 number, to your knowledge?</p> <p>14 A. To my knowledge, that never happened.</p> <p>15 Q. Do you know whether that would be a</p> <p>16 legal use of Abbott's provider number, to loan it</p> <p>17 to or provide it to a partner to use?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I do not know -- I don't know whether</p> <p>21 that would be legal or not.</p> <p>22 Q. Were you at all involved during this</p> |
| <p style="text-align: right;">Page 75</p> <p>1 venture.</p> <p>2 Q. Okay. What was your understanding of</p> <p>3 the relationship between the partner and Abbott?</p> <p>4 MS. CITERA: Objection to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Well, again, it's what I just</p> <p>7 described. Depending on -- As we negotiated</p> <p>8 agreements with these various hospital-based</p> <p>9 programs, there was a determination during that</p> <p>10 contractual process regarding what services they</p> <p>11 were going to perform versus what Abbott would</p> <p>12 perform on their behalf. And then based on --</p> <p>13 And then based on that, there was -- the decision</p> <p>14 was made about how that -- how the risk sharing</p> <p>15 would then take place between the partners.</p> <p>16 Q. Okay. And then -- And when did that</p> <p>17 business model change or did it ever change</p> <p>18 within Home Infusion?</p> <p>19 A. Well, it changed from being -- for us</p> <p>20 billing as Abbott to these partnering programs.</p> <p>21 I'm going to guess that happened sometime</p> <p>22 probably '87, '88, somewhere in that time frame.</p> | <p style="text-align: right;">Page 77</p> <p>1 '91 through '96 time frame with evaluations of</p> <p>2 whether or not the policies, practices, and</p> <p>3 procedures of the Home Infusion unit were in</p> <p>4 compliance with state and federal regulations?</p> <p>5 MS. CITERA: I'm just going to object</p> <p>6 to the form. I'm also going to caution you that</p> <p>7 to the extent you had any conversations with</p> <p>8 counsel, that you not reveal the substance of</p> <p>9 those conversations.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I don't recall that that ever happened.</p> <p>12 Q. When you say you don't recall that that</p> <p>13 ever happened, what do you mean?</p> <p>14 A. I think --</p> <p>15 MS. CITERA: Same instruction.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I think your question was did -- Well,</p> <p>18 repeat your question, would you please again?</p> <p>19 Q. Sure. Let me clarify.</p> <p>20 Who or what efforts did -- were you</p> <p>21 aware of that Abbott Home Infusion undertook to</p> <p>22 verify whether or not its policies, practices,</p> |

20 (Pages 74 to 77)

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January 17, 2008

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| <p style="text-align: right;">Page 78</p> <p>1 and procedures complied with state and federal 2 Medicare and Medicaid laws? 3 MS. CITERA: Objection to the form and 4 also the same instruction to you. 5 BY THE WITNESS: 6 A. Okay. I am not aware that any -- that 7 there were any discussions about that. 8 Q. Who would you anticipate those -- Well, 9 let me ask you, was it within your responsibility 10 when you were in Home Infusion to deal with 11 compliance with state and federal Medicare and 12 Medicaid laws? 13 MS. CITERA: Objection to the form. 14 BY THE WITNESS: 15 A. During that period, I was not involved 16 in Medicare and Medicaid at all. I was doing the 17 case management at that point, so I had no 18 knowledge of anything related to Medicare and 19 Medicaid at that point. 20 Q. Okay. When did you first learn -- When 21 did you first have involvement with or knowledge 22 of Medicare and Medicaid?</p> | <p style="text-align: right;">Page 80</p> <p>1 because she was our manager of reimbursement at 2 the time, so I would probably say that Virginia 3 would have been the main person. 4 Q. How did Abbott Home Infusion employees 5 know that these consignment arrangements complied 6 with state and federal Medicare and Medicaid 7 laws? 8 MS. CITERA: Objection, form. 9 BY THE WITNESS: 10 A. I -- 11 MS. CITERA: I just want to again 12 caution you about that instruction too. Sorry. 13 BY THE WITNESS: 14 A. I'm trying to understand what you're 15 asking because I guess I'm kind of confused about 16 what it is you're asking me. 17 Q. Okay. Well, let me back up a little 18 bit. 19 Your consignment -- Abbott's 20 consignment partners obviously billed the 21 Medicare and Medicaid programs, right? 22 A. Correct.</p> |
| <p style="text-align: right;">Page 79</p> <p>1 MS. CITERA: Object to the form. 2 BY THE WITNESS: 3 A. When I first went into Home Infusion 4 Services in 1985. 5 Q. Okay. And for how long were you 6 involved with Medicare or Medicaid? 7 A. From 1985 until '91 when I moved into 8 the case management position. I moved into that 9 position in 19 -- January of 1992. 10 Q. Do you know during the period of time 11 that you -- from '85 to '91, did you have any 12 involvement with monitoring Home Infusion's 13 compliance with state and federal Medicare and 14 Medicaid statutes? 15 MS. CITERA: Objection to the form. 16 BY THE WITNESS: 17 A. No, I did not have any involvement in 18 that. 19 Q. Who would have had that responsibility? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. I would probably say Ginnie Tobiason</p> | <p style="text-align: right;">Page 81</p> <p>1 Q. Okay. How did the Abbott Home Infusion 2 employees who were, you know, facilitating these 3 contracts, how did they know that these contracts 4 complied with state and federal Medicaid and 5 Medicare laws? 6 MS. CITERA: Objection to the form. 7 Same instruction. 8 BY THE WITNESS: 9 A. When contracts were negotiated -- And, 10 again, at that point, I was working in our 11 reimbursement area and not working on negotiating 12 the contracts. The people who worked on our 13 contracts worked with our legal counsel to 14 develop those agreements. So I believe that 15 based on what -- what we understood at that 16 point, that those contracts were valid. 17 MR. ANDERSON: Ann, if I can interject, 18 I think we have about one minute left on the 19 tape. 20 MS. ST. PETER-GRIFFITH: Okay. Why 21 don't we take a break. Is now a good time to 22 take a break, folks?</p> |

21 (Pages 78 to 81)

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January 17, 2008

Chicago, IL

| Page 82 | Page 84 |
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| <p>1 MS. CITERA: Yeah.</p> <p>2 MR. ANDERSON: Yeah.</p> <p>3 THE VIDEOGRAPHER: We are off the</p> <p>4 record at 10:25 a.m. with the end of Tape No. 1.</p> <p>5 (A short break was had.)</p> <p>6 THE VIDEOGRAPHER: We are back on the</p> <p>7 record at 10:38 a.m. with the start of Tape No.</p> <p>8 2.</p> <p>9 MS. ST. PETER-GRIFFITH: If I could</p> <p>10 just have the court reporter read where we left</p> <p>11 off.</p> <p>12 (Record read as requested.)</p> <p>13 BY MS. ST. PETER-GRIFFITH:</p> <p>14 Q. Okay. Ms. Leone --</p> <p>15 A. Yes.</p> <p>16 Q. -- during your tenure in the Home</p> <p>17 Infusion Services department, did you ever learn</p> <p>18 of any concerns being raised about the compliance</p> <p>19 of the Home Infusion model with Medicare or</p> <p>20 Medicaid laws or regulations?</p> <p>21 MS. CITERA: Objection to the form.</p> <p>22 BY THE WITNESS:</p> | <p>1 Q. I'd like to go back to the -- We got</p> <p>2 sidetracked a little bit. Under the Home</p> <p>3 Infusion business model, were these consignment</p> <p>4 arrangements the only way that dextrose, sodium</p> <p>5 chloride, vancomycin, sterile water were sold and</p> <p>6 marketed?</p> <p>7 MS. CITERA: Objection to the form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I believe that -- Well, first of all,</p> <p>10 that's only when we were doing those partnership</p> <p>11 arrangements that we had that consignment. But I</p> <p>12 believe there were also a few customers, although</p> <p>13 I can't off the top of my head think of who they</p> <p>14 were, where they were actually purchasing the</p> <p>15 product from us for their home infusion programs</p> <p>16 to do it, so --</p> <p>17 Q. Okay. And how would they purchase the</p> <p>18 product? For example, would they negotiate a</p> <p>19 contract with Home Infusion?</p> <p>20 A. Yes.</p> <p>21 Q. And in terms of the sale and marketing</p> <p>22 of -- Well, first let me ask you, acyclovir, at</p> |
| Page 83 | Page 85 |
| <p>1 A. No.</p> <p>2 Q. Who within Home Infusion would have</p> <p>3 been responsible for ensure that the business</p> <p>4 model complied with state and federal Medicaid</p> <p>5 and Medicare laws?</p> <p>6 MS. CITERA: Object to the form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Well -- And I think I want to go back</p> <p>9 to my previous answer. Our contracting people</p> <p>10 and probably our management at the time would</p> <p>11 have worked with our legal counsel to determine,</p> <p>12 you know, how to write these contracts and how we</p> <p>13 could build the relationships with these</p> <p>14 customers.</p> <p>15 Q. Okay. And is it fair to say, then,</p> <p>16 that you as an employee of Home Infusion relied</p> <p>17 upon the managers and legal counsel to ensure</p> <p>18 that what you were doing complied with state and</p> <p>19 federal Medicare and Medicaid statutes?</p> <p>20 MS. CITERA: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Yes, I believe we did.</p> | <p>1 this point in time from '91 to '96 was that --</p> <p>2 was acyclovir part of the Home Infusion program?</p> <p>3 A. I don't remember when acyclovir became</p> <p>4 available for -- that it was -- that it was an</p> <p>5 Abbott product that we sold. I know that when we</p> <p>6 first -- when we first started Home -- when I</p> <p>7 first went into Home Infusion, I don't believe</p> <p>8 that there was an Abbott acyclovir at that time;</p> <p>9 but I don't remember when they did have acyclovir</p> <p>10 available. So, I mean, I can't tell you the</p> <p>11 dates.</p> <p>12 Q. Okay. Well, then, for any of these</p> <p>13 products -- dextrose, sodium chloride, sterile</p> <p>14 water, vancomycin, acyclovir -- do you recall any</p> <p>15 other information about how they were sold or</p> <p>16 marketed from the '91 through '96 time frame --</p> <p>17 MS. CITERA: Object to the form.</p> <p>18 BY MS. ST. PETER-GRIFFITH:</p> <p>19 Q. -- by the Home Infusion department?</p> <p>20 MS. CITERA: Objection to the form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. No, just what we've just described. It</p> |

22 (Pages 82 to 85)

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| <p style="text-align: right;">Page 86</p> <p>1 was either in one of these partnership agreements 2 or, you know, purchasing the product directly. 3 Q. And how -- For the purchasing of 4 product directly, what prices were charged or how 5 was the pricing determined for the contracts or 6 for the sales to the nonconsignment partner -- or 7 to the nonconsignment customers? 8 MS. CITERA: Objection to the form. 9 BY THE WITNESS: 10 A. I was not involved in that contracting, 11 so I don't know how those prices were determined 12 or what they did. 13 Q. Okay. So in terms of your knowledge of 14 the sales and marketing of these drugs in Home 15 Infusion, you don't have any familiarity for the 16 '91 through '96 time frame of pricing; is that 17 fair? 18 MS. CITERA: Object to the form. 19 BY THE WITNESS: 20 A. I don't have any knowledge of pricing 21 for a contract where one of the home infusion 22 customers was actually purchasing the Abbott</p> | <p style="text-align: right;">Page 88</p> <p>1 that period of time I was the case manager. So I 2 was working with the third-party insurance 3 companies -- I was working with the third-party 4 insurance companies to negotiate prices or 5 negotiate therapies, negotiate the services that 6 were being provided to the patients. And so 7 there wasn't -- and so then the pricing that I 8 was aware of there is what the billable charges 9 were going to be for those third-party -- those 10 third-party -- those third-party insurance 11 companies. 12 Q. Okay. Well, would you do that 13 negotiation, then, on behalf of the home infusion 14 partner? 15 A. Yes. 16 Q. For their patients? 17 A. Yes. 18 Q. And did you do any negotiations for 19 Medicare or Medicaid patients? 20 A. No. 21 Q. Why not? 22 A. Because the managed care -- the managed</p> |
| <p style="text-align: right;">Page 87</p> <p>1 products. 2 Q. Okay. 3 A. Okay. 4 Q. Fair enough. Do you have knowledge of 5 pricing for -- under the consignment 6 arrangements? 7 A. No. 8 Q. Okay. Is it fair to say, then, that 9 your knowledge of sales and marketing of 10 dextrose, sodium chloride, sterile water, 11 vancomycin, and acyclovir from '91 to '96 by the 12 Home Infusion department does not include 13 knowledge about pricing for those products? 14 MS. CITERA: Object to the form. 15 BY THE WITNESS: 16 A. It doesn't include knowledge about 17 pricing between Abbott and its partners -- or 18 customers. 19 Q. Okay. Do you have any other knowledge 20 of pricing for those products during this time 21 frame? 22 A. Only as it related to -- Again, during</p> | <p style="text-align: right;">Page 89</p> <p>1 care that was going on at that point and what I 2 was responsible for was with third-party 3 insurance companies, it was -- so that was the 4 sole -- that was the sole -- that was my sole 5 area of responsibility. 6 Q. When you were negotiating pricing with 7 the case managers, were you familiar with AWP? 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. If a patient was on an infusion therapy 11 other than being on TPN or enteral nutrition -- 12 so, for instance, if they were receiving an IV 13 antibiotic at home or if they were receiving 14 chemotherapy or pain management therapies at home 15 -- when I would negotiate with those case 16 managers, they were looking at those negotiations 17 to be based on a per diem for all the services 18 and supplies that were being provided to that 19 patient and then AWP for the actual drug that was 20 being dispensed to the patient. 21 Q. Okay. So would it be -- So then you 22 would -- as you're negotiating charges then it</p> |

23 (Pages 86 to 89)

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| <p style="text-align: right;">Page 90</p> <p>1 would be the per diem -- for those particular 2 therapies, it would be the per diem plus the AWP? 3 A. Yes. 4 Q. Why would it be the AWP figure? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. That was -- That was how the case 8 managers wanted to negotiate. That was -- that 9 was their preferred way of reimbursing for those 10 services,so -- 11 Q. When you say the case managers -- 12 MS. CITERA: Could you let her finish? 13 BY MS. ST. PETER-GRIFFITH: 14 Q. -- I have to tell you, I thought you 15 were a case manager during this period of time. 16 A. I'm sorry. My role was to be the case 17 manager for -- on behalf of all of our partners 18 working with the insurance company case managers, 19 so -- And in most circumstances, they were 20 nurses. 21 Q. Okay. 22 A. And they were -- What they were</p> | <p style="text-align: right;">Page 92</p> <p>1 Q. Okay. And that's how you're familiar 2 with the term AWP during that period of time? 3 A. Yes. 4 Q. Okay. 5 MS. CITERA: Ann, Ann -- 6 BY MS. ST. PETER-GRIFFITH: 7 Q. And is it fair to say the higher the 8 AWP, that meant the higher the reimbursement for 9 a particular therapy? 10 MS. CITERA: Objection to form. 11 BY THE WITNESS: 12 A. The therapy was based on what the 13 doctor was prescribing, whatever the patient -- 14 Whatever the doctor prescribed was the -- was 15 what the drug was that was going to be used. And 16 then the partners would let us know whose product 17 they were -- whose drug that they were using so 18 that we would know the correct product to use 19 when we were discussing things with the insurance 20 companies. 21 Q. Okay. Well, what -- how would the 22 partners determine which product they wanted to</p> |
| <p style="text-align: right;">Page 91</p> <p>1 managing -- What they were managing was the 2 entire patient care for that individual when they 3 came out of the hospital on some type of home 4 service. 5 So they were managing what type of 6 services the patient was receiving, were they 7 getting nursing visits, was there oxygen, 8 whatever they were doing at home. And in 9 conjunction with that, they were also managing 10 the costs for -- for those patients at home. So 11 they would -- they would work with our partner to 12 determine what was appropriate from a therapy 13 perspective that that patient was going to be 14 receiving in a home setting, and then they would 15 work with us when there was an infusion therapy - 16 - when there was an infusion therapy that the 17 patient was receiving to determine how that 18 infusion therapy in the home setting should be -- 19 should be paid, should be paid for. 20 Q. Okay. 21 A. So ... So that's what I meant by "case 22 manager."</p> | <p style="text-align: right;">Page 93</p> <p>1 use? 2 MS. CITERA: Object to the form. 3 BY THE WITNESS: 4 A. I don't know. They -- I don't know how 5 they would determine what products they were 6 going to use. 7 Q. Well, if the AWP -- If you have the 8 same product that's the same -- basically the 9 same drug but it's a generic drug marketed under 10 different names and one has an AWP that's higher, 11 if you use -- if your partner determined to use - 12 - that they should use the product with the 13 higher AWP, wouldn't that mean that there would 14 be a higher reimbursement for that particular 15 therapy? 16 MS. CITERA: Object to the form. 17 BY THE WITNESS: 18 A. It could mean that, yes. 19 Q. Okay. And Abbott would share in that 20 reimbursement, right? 21 MS. CITERA: Objection, form. 22 BY THE WITNESS:</p> |

24 (Pages 90 to 93)

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| <p style="text-align: right;">Page 94</p> <p>1 A. It depended on whether -- Let me think 2 through the answer on this. 3 Q. Let me see if I can clarify it. For 4 these consignment arrangements, Abbott would 5 share in the reimbursement, right? 6 A. Correct. 7 Q. Okay. 8 A. But, for instance, when there was an -- 9 a patient who was on antibiotics, the majority of 10 the antibiotics that the partners were using were 11 not Abbott products. Abbott only had one or two. 12 They were -- all the rest of the products were 13 from other manufacturers. 14 Q. Okay. But still, if they used -- if 15 there were several products to choose from and 16 they used the product with the higher AWP, it 17 still would generate a larger reimbursement for 18 that particular therapy, right? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. Yes. 22 Q. Okay. Ma'am, I want to sort of close</p> | <p style="text-align: right;">Page 96</p> <p>1 I'm starting to get lost in my questions. 2 MS. CITERA: I'm just going to tell 3 her, she's going to call those drugs "the subject 4 drugs." And when she says "the subject drugs," 5 she's referring to those five. 6 MR. ANDERSON: And why don't you read 7 it, Ms. Leone, just to make sure it's right. 8 THE WITNESS: Vancomycin, sodium 9 chloride, sterile water, dextrose, and acyclovir. 10 MR. ANDERSON: Thank you. 11 BY MS. ST. PETER-GRIFFITH: 12 Q. Okay. Ms. Leone, for the '91 through 13 '96 time period, can you describe what your job 14 responsibilities were? 15 A. During 1991, I was still a 16 reimbursement specialist. So at that point, I 17 was completing insurance forms for the services 18 that were being provided. And there were two or 19 three of those partners that I was responsible 20 for completing those insurance forms for. And so 21 it was my responsibility to submit those billable 22 charges to those -- to those insurance companies;</p> |
| <p style="text-align: right;">Page 95</p> <p>1 out all of your knowledge about the sale and 2 marketing of dextrose, sodium chloride, sterile 3 water, vancomycin, and acyclovir during your 4 period of time in the -- or during your tenure in 5 Home Infusion Services from '91 to '96. Have we 6 exhausted your memory on that or your knowledge 7 on that? 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. Yes. 11 MS. CITERA: Ann -- 12 MS. ST. PETER-GRIFFITH: Yes. 13 MS. CITERA: -- I was just thinking, 14 and I asked Jarrett -- And it's up to you. But I 15 wrote down the drugs, and I'm thinking that might 16 be easier to put it in front of her. 17 MS. ST. PETER-GRIFFITH: Oh, sure. 18 That's fine. We'll just call them the subject 19 drugs. 20 MS. CITERA: Yeah, that's fine. 21 Jarrett looked them over and approved them. 22 MS. ST. PETER-GRIFFITH: Okay. I know.</p> | <p style="text-align: right;">Page 97</p> <p>1 when reimbursement was received, to review it; if 2 the patient had a copay, because it only paid, 3 like, 80 percent, they had their out-of-pocket 4 expenses or whatever, to balance bill whoever the 5 appropriate party was for the second part of it; 6 if there were denials received from the insurance 7 companies to determine -- to work with the 8 insurance companies to understand, you know, why 9 the services were being denied and what we needed 10 to do for resubmittal. So that was in 1991. 11 And then in 1992 to 1996 when I left, I 12 was doing the managed care contracting that we've 13 just discussed. 14 Q. Okay. And the managed care 15 contracting, that was the negotiating -- the 16 working with the insurance companies, et cetera, 17 to work on negotiating particular therapies for 18 your consignment partners' patients? 19 MS. CITERA: Object to the form. 20 BY THE WITNESS: 21 A. Yes. 22 Q. Okay. Ma'am, during this period of</p> |

25 (Pages 94 to 97)

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| <p style="text-align: right;">Page 98</p> <p>1 time, were you involved in developing any -- or 2 actually during -- at any time during your tenure 3 in Home Infusion Services, were you involved in 4 developing any manuals or procedures for Home 5 Infusion? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. Yes, I was. And this is what I 9 referenced earlier, the one document that I 10 looked at. I developed a training manual for how 11 to do insurance company case management, to work 12 with the insurance companies for the therapies 13 that were being provided, and so -- And I did 14 that, I'm going to say, probably the '95/'96 -- 15 sometime '94, '95, '96. I can't remember exactly 16 when we did that. 17 But we put -- we created this training 18 manual because more and more of those partners 19 were choosing to do their own reimbursement 20 instead of having Abbott do the reimbursement 21 services for them. And so we put together this 22 manual as kind of a training manual for the</p> | <p style="text-align: right;">Page 100</p> <p>1 Q. Did you keep a copy of this manual? 2 A. No, I don't have one. 3 Q. Okay. Are you familiar with any other 4 -- Was that the only manual that you helped 5 develop when you were in Home Infusion? 6 A. That's the only manual I can recall, 7 but it's been a long time. 8 Q. Okay. Do you recall any other manuals 9 that were developed and utilized within the Home 10 Infusion department? 11 A. No, I don't. 12 Q. What other responsibilities did you 13 have from '91 to '96 when you were within the 14 Home Infusion department? Or have we exhausted 15 it? 16 A. We've exhausted it. 17 Q. Okay. Well, we'll move on to a 18 different time frame, then. 19 From '96 to '01, first let's go over, 20 what were your job responsibilities? 21 A. From '96 to 2001 I was the manager of 22 Contract Marketing for Alternate Site Product</p> |
| <p style="text-align: right;">Page 99</p> <p>1 things that these partners should do when they're 2 doing the same thing that I was, which was 3 negotiating with the third-party payors. 4 Q. Do you know why that emerged as a 5 trend, that certain services, your home infusion 6 partners were electing to do themselves? 7 MS. CITERA: Object to the form. 8 BY THE WITNESS: 9 A. I just think it was just a change in 10 the market, change in the industry, and they were 11 looking on -- looking at taking on more of those 12 responsibilities themselves. 13 Q. Did it have an impact on the sort of 14 bottom line of the level of reimbursement that 15 Abbott's Home Infusion was able to participate in 16 with their home infusion partners? 17 MS. CITERA: Object to the form. 18 BY THE WITNESS: 19 A. Again, I wasn't involved in the 20 negotiations for any of those contracts, so I 21 don't know if that had an impact on that piece of 22 it.</p> | <p style="text-align: right;">Page 101</p> <p>1 Sales. 2 Q. What were your job responsibilities, 3 then? 4 A. I was responsible for negotiating and 5 developing the contracts that we had with all of 6 our Alternate Site Product Sales customers, and I 7 had -- I had I think seven people reporting to me 8 by the end. I mean, the department grew a little 9 bit during that period of time, who were actually 10 the people who were developing the contracts and 11 implementing them into our contracting system. 12 Q. Okay. And what day-to-day did your job 13 responsibilities entail? 14 MS. CITERA: Object to the form. 15 BY THE WITNESS: 16 A. It include managing those people, 17 reviewing the types of contracts that we were 18 working on, determining pricing parameters for 19 those customers with those contracts and then, 20 for that period of time in '98 and '99, as we've 21 already discussed, I was responsible for the -- 22 in my last deposition -- for the Medicaid price</p> |

26 (Pages 98 to 101)

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| <p style="text-align: right;">Page 102</p> <p>1 reporting.</p> <p>2 Q. Okay. And how did you determine or --</p> <p>3 determine pricing parameters?</p> <p>4 A. The pricing parameters were based on</p> <p>5 the volume of business that a customer was going</p> <p>6 to bring us or what the customer was willing to</p> <p>7 commit to bring us. And, again, the contracts</p> <p>8 that we wrote were for the -- in most</p> <p>9 circumstances, the full product line where it was</p> <p>10 either a solutions and equipment contract, in</p> <p>11 which case the solutions contract -- the</p> <p>12 solutions and equipment contract would have</p> <p>13 included the sodium chloride, sterile water, and</p> <p>14 dextrose or it could have been an injectables</p> <p>15 contract, and that would have included all of our</p> <p>16 pharmaceutical injectables including the</p> <p>17 vancomycin and acyclovir. And in some cases, all</p> <p>18 of the products were in one agreement that we</p> <p>19 signed.</p> <p>20 But, again, pricing was determined</p> <p>21 based on what type -- how much business we</p> <p>22 thought that customer -- I'm still thinking Home</p> | <p style="text-align: right;">Page 104</p> <p>1 We could review that, and then we would -- if we</p> <p>2 had questions, we would get in touch with the</p> <p>3 appropriate individual within that Contract</p> <p>4 Marketing department to understand what was</p> <p>5 happening. So we would make sure that we were</p> <p>6 pricing appropriately based on what was going on</p> <p>7 in the hospital market.</p> <p>8 Q. Did you have some flexibility, though,</p> <p>9 within Alt Site in terms of price determinations?</p> <p>10 Or were you -- were your prices dictated to you</p> <p>11 by Hospital Products Division?</p> <p>12 A. No, we had --</p> <p>13 MS. CITERA: Objection to the form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I'm sorry. We had some flexibility.</p> <p>16 Q. Okay. And who were the seven people</p> <p>17 reporting to you during this '96 through '01 time</p> <p>18 frame?</p> <p>19 A. Well, there were a variety of different</p> <p>20 people who came in and left the department. So I</p> <p>21 can -- I can tell you all the names, but I can't</p> <p>22 tell you exactly when each one of them was in or</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Infusion -- that that customer could bring to</p> <p>2 Abbott.</p> <p>3 Q. And did you work within Alt Site with</p> <p>4 anyone else within the Hospital Products Division</p> <p>5 to arrive at setting those prices?</p> <p>6 A. I had dotted -- I had a dotted-line</p> <p>7 responsibility to the director of Contract</p> <p>8 Marketing in the hospital side; and one of the</p> <p>9 things that we would look at when we were</p> <p>10 negotiating the agreements was what we thought</p> <p>11 the -- where the hospital -- where the hospital</p> <p>12 was pricing those products for the Hospital</p> <p>13 Business Sector at that time. So we would make</p> <p>14 sure that our pricing was within those same or</p> <p>15 similar guidelines based on what the hospital was</p> <p>16 doing.</p> <p>17 Q. And where would you get that</p> <p>18 information about what the hospital was doing in</p> <p>19 terms of its -- the Hospital Products Division</p> <p>20 was doing in terms of its pricing?</p> <p>21 A. We had access to their pricing file,</p> <p>22 their on-line pricing file. And so we would --</p> | <p style="text-align: right;">Page 105</p> <p>1 out of the department. Is that what you'd like</p> <p>2 to hear?</p> <p>3 Q. Yes, please.</p> <p>4 A. Okay. There was Debbie Longley, Cindy</p> <p>5 Dawson, Joe Sweeney, Angie Massaro, Scott Moore,</p> <p>6 Eric -- and I can't remember Eric's last name --</p> <p>7 Dave Harling, Linda Ozark, Roberta Green, Sherry</p> <p>8 Burke, Nadine Hansen, Pat Gloss, and I think</p> <p>9 there's probably one or two people whose names I</p> <p>10 can't think of right now off the top of my head.</p> <p>11 Q. Okay. When you were in Alt Site, did</p> <p>12 you have to prepare or did Alt Site prepare</p> <p>13 marketing plans?</p> <p>14 MS. CITERA: Objection to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Our marketing managers would put</p> <p>17 together marketing plans for the year during the</p> <p>18 plan process.</p> <p>19 Q. Okay. Can you explain what you mean by</p> <p>20 that?</p> <p>21 A. Every year, it usually happened in the</p> <p>22 fall, the marketing managers would have to put</p> |

27 (Pages 102 to 105)

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| <p style="text-align: right;">Page 106</p> <p>1 together what they projected to be their sales 2 for the next year. And that would be part of our 3 plan process to determine what we thought we 4 could sell for the next year. 5 Q. Okay. And how was your plan process 6 memorialized? 7 MS. CITERA: Object to the form. 8 BY THE WITNESS: 9 A. I'm not sure what you mean by 10 "memorialized." 11 Q. Well, you have these marketing plans. 12 Was the process itself written down someplace? 13 Would you bless these plans and put them into a 14 larger document? How would that work? 15 A. The marketing managers would review the 16 historical sales information for the products 17 that they were -- that they were looking at. 18 Some products they looked at on an individual 19 basis. Other products they looked at as part of 20 a family of products. And they would -- excuse 21 me. They would determine whether they thought 22 that we would have opportunities to grow that</p> | <p style="text-align: right;">Page 108</p> <p>1 cover dispensing costs of physicians when 2 considering pricing? 3 MS. CITERA: Object to the form. 4 BY THE WITNESS: 5 A. No, because our customers were not 6 physicians. Our customers were the group 7 purchasing organizations, the home infusion 8 companies, the nursing -- the long-term care 9 facilities. They were not the doctors. It was 10 whoever was going to be compounding or mixing 11 those products for patients. So our customer 12 wasn't the doctor, so that was never a 13 consideration. 14 Q. Okay. Let me ask you, when you 15 started, did Alt Site monitor its market share on 16 particular products, like, for example, 17 vancomycin? 18 MS. CITERA: Object to the form. 19 BY THE WITNESS: 20 A. Not that I recall. 21 Q. Do you recall what -- when you started 22 in '96 what the market share for Abbott's</p> |
| <p style="text-align: right;">Page 107</p> <p>1 business during the next year or whether they 2 thought that something else would happen and we 3 wouldn't be able to grow that, whether there 4 would be opportunities for us to take price 5 increases on those based on -- the majority of 6 our contracts had language written into them that 7 there could be inflationary anniversary price 8 changes. So they would look at them in 9 relationship to that and see whether there was 10 the opportunity to take that up, when that gating 11 would take place. And so then they would put all 12 that together into some spreadsheets that went 13 into a book every year. 14 Q. Okay. When considering pricing or 15 planning pricing, would any consideration be made 16 to the dispensing costs of a particular 17 physician? 18 MS. CITERA: Object to the form. 19 BY MS. ST. PETER-GRIFFITH: 20 Q. Or I'm sorry. Let me rephrase that. 21 Would any consideration be made to 22 physician dispensing cost and the need to perhaps</p> | <p style="text-align: right;">Page 109</p> <p>1 vancomycin was in the alt site market? 2 A. No, I don't know what that is. 3 Q. Okay. 4 A. Or was. I'm sorry, what that was. 5 Q. You don't know what that was? 6 A. Yeah. I can't say is because that's 12 7 years ago. 8 Q. Okay. Do you recall there being, 9 during the '96 through '01 time period, a -- an 10 increase in customer purchasing -- purchases, I'm 11 sorry, of vancomycin? 12 MS. CITERA: Object to the form. 13 BY THE WITNESS: 14 A. I do not recall the sales growth for 15 vancomycin for Alternate Site Product Sales for 16 the period of 1996 to 2001. 17 Q. Do you recall whether there was a sales 18 growth or vancomycin during this period? 19 MS. CITERA: Object to the form. 20 BY THE WITNESS: 21 A. No, I don't recall that. 22 Q. What else can you tell me about your</p> |

28 (Pages 106 to 109)

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| <p style="text-align: right;">Page 110</p> <p>1 knowledge of the sale and marketing of the 2 subject drugs during the '96 to '01 time period? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. Well, again, as I said before, those -- 6 none of these products were sold as -- as 7 individual products. I do not recall writing -- 8 ever writing a product -- a contract for just one 9 of these five products for any of our customers. 10 They were always included as part of the full 11 portfolio of the products that we had available 12 to those customers to buy. 13 Q. Okay. Anything else? I want to make 14 sure that we -- before we move on that we exhaust 15 your knowledge of the sale and marketing of the 16 subject drugs by Abbott Home Infusion -- I'm 17 sorry -- by Abbott Alternate Site during the '96 18 through '01 time period. 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. What was the question? 22 Q. I want to know what else can you tell</p> | <p style="text-align: right;">Page 112</p> <p>1 this five-year time period that you were there? 2 MS. CITERA: I'll object to the form. 3 BY THE WITNESS: 4 A. Yeah, sales grew on a year-to-year 5 basis. And the sales growth was tied to more 6 customers signing agreements with us, taking 7 advantage of the companies who had signed 8 agreements with us, their members or the 9 distributors selling more of those products. So 10 yeah, we had sales growth based on those types of 11 things. 12 Q. Do you have any knowledge or 13 appreciation of whether or not an increase in the 14 vancomycin AWP during this time period had any 15 effect on the Alt Site increased sales from '96 16 to '01? 17 MS. CITERA: Objection to the form. 18 BY THE WITNESS: 19 A. I do not know if that was a reason for 20 any of the price -- the growth. But, again, it 21 was the growth across all of our products that 22 grew the sales on a year-to-year basis.</p> |
| <p style="text-align: right;">Page 111</p> <p>1 me about Abbott Alt Site's sale and marketing of 2 the subject drugs from '96 to '01. 3 MS. CITERA: Objection to the form. 4 BY THE WITNESS: 5 A. I think we've talked about the fact 6 that we contracted as part of the larger 7 portfolio; and I think -- you know, I think that 8 pretty much covers it. 9 Q. Okay. And those are -- your customers 10 -- Do you recall who your customers were? 11 A. Our customers could have been home care 12 companies; they could have been long-term care 13 facilities; they could have been members of group 14 purchasing organizations. We actually sold a lot 15 of our products to distributors who then sold to 16 end-users, and they were noncharge-back 17 distributors. So we had a good piece of the 18 business that went through them, and then they 19 sold the products to an end-user. 20 Q. Okay. Do you recall whether Abbott's 21 Alternate Site had, you know, recognized an 22 increase or had an increase in business during</p> | <p style="text-align: right;">Page 113</p> <p>1 Q. Okay. But you have no information 2 about that? 3 MS. CITERA: Objection, form. 4 BY THE WITNESS: 5 A. I have no information about that. 6 Q. Did anyone at any time to your 7 recollection from '96 to '01 when you were in Alt 8 Site, did anyone discuss the impact of increased 9 AWP's of vancomycin on the sales growth within Alt 10 Site? 11 MS. CITERA: Objection to the form. 12 BY THE WITNESS: 13 A. Within our Alternate Site 14 organizations, we never had any discussions about 15 that. 16 Q. You know -- You recall definitively 17 that you personally never had any discussions or 18 that there definitively were no discussions? 19 A. I personally was never involved in any 20 discussion about AWP as a reason for growth in 21 sales. 22 Q. Okay. Is there anything else that you</p> |

29 (Pages 110 to 113)

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| <p style="text-align: right;">Page 114</p> <p>1 can tell me about your knowledge of the sales and 2 marketing of the subject drugs within the 3 hospital -- I'm sorry, within the home -- the Alt 4 Site Product Sales? 5 A. Too many organizations. 6 Q. Yeah. Within Alt Site Product Sales 7 from '96 to '01? 8 MS. CITERA: Object to the form. 9 BY THE WITNESS: 10 A. No, I don't believe we've discussed it 11 fully. 12 Q. Okay. So we're exhausted on that? 13 A. Yes. 14 Q. Now, your special projects from '01 to 15 '03, did that in any way deal with the sales and 16 marketing of Abbott Hospital Products Division 17 products? 18 A. Only in that I was working on a project 19 for us to change our order management system, and 20 so obviously that would have an impact when 21 customers placed orders. But it had nothing to 22 do with pricing or anything else. It was just</p> | <p style="text-align: right;">Page 116</p> <p>1 Marketing and the compliance with our operating 2 procedures and the training activities. The only 3 thing that I can -- the only -- the only thing 4 relating to the sales and marketing is that I was 5 also working with our legal department to update 6 all of our contract templates that were used for 7 writing contracts with all of our customers, both 8 Hospital and Alternate Site. 9 Q. Okay. When you say "compliance," what 10 do you mean? 11 A. Compliance to the operating procedures 12 for Contract Marketing and compliance to 13 contractual agreements. 14 Q. Okay. So it's not compliance in a 15 statutory or regulatory framework? For example, 16 you weren't responsible for monitoring whether or 17 not Abbott Hospital Products Division Contract 18 Marketing was complying with state or federal 19 statutes, right? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. No, I was not. It was making sure that</p> |
| <p style="text-align: right;">Page 115</p> <p>1 the new order processing system. 2 Q. Okay. And when you joined Contract 3 Marketing in '03 -- or should I say rejoined 4 because you were originally in Contract 5 Marketing, were you not, early on? 6 A. Yes, yes. 7 Q. When you rejoined Contract Marketing in 8 '03 within the Hospital Products Division, let me 9 ask you, by that point in time, had Alt Site 10 essentially merged into Hospital Products? 11 A. Yes. 12 Q. Okay. 13 A. Yeah. 14 Q. What is your knowledge of -- from -- 15 once you assume your responsibilities within the 16 Contract Marketing division, what's your 17 knowledge of the sales and marketing of the 18 subject drugs? 19 A. At that point, I wasn't -- I wasn't 20 involved in writing contracts anymore or the 21 sales and marketing. I was starting to work on 22 all of the compliance activities within Contract</p> | <p style="text-align: right;">Page 117</p> <p>1 we had operating procedures in place for all of 2 the activities and that we were in compliance 3 with the policies, the Abbott policies, and then 4 later the Hospira policies. 5 Q. Okay. Other than what you've just 6 described, do you have any other knowledge about 7 Abbott's -- Abbott Hospital Products Division 8 sale and marketing of the subject drugs? 9 MS. CITERA: Object to the form. 10 BY THE WITNESS: 11 A. No. 12 Q. Okay. Have we exhausted, then, for 13 this period from '91 to '03, your knowledge of 14 any information concerning the sale and marketing 15 of the subject drugs? 16 MS. CITERA: Object to the form. 17 BY THE WITNESS: 18 A. Yes, I believe we have exhausted it. 19 Q. Okay. Let's move on to the next topic. 20 Ma'am, can you describe your knowledge 21 during the '91 through '03 time period of the 22 benefits of the subject drugs in the treatment of</p> |

30 (Pages 114 to 117)

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| <p style="text-align: right;">Page 118</p> <p>1 patients?</p> <p>2 MS. CITERA: Object to the form.</p> <p>3 BY MS. ST. PETER-GRIFFITH:</p> <p>4 Q. If you have any knowledge, I should ask</p> <p>5 -- Let me ask you this first. Strike that</p> <p>6 earlier question.</p> <p>7 Do you have any knowledge for the time</p> <p>8 period of '91 through '03 of the benefits of the</p> <p>9 subject drugs in the treatment of patients?</p> <p>10 MS. CITERA: Object to the form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. No, I don't.</p> <p>13 Q. Okay. Do you have any knowledge for</p> <p>14 the time period from '91 through '03 of Medicare</p> <p>15 and Medicaid reimbursement systems?</p> <p>16 MS. CITERA: Object to the form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Well -- And, again, in '91 I was still</p> <p>19 doing some reimbursement, although the majority</p> <p>20 of the partners that I was doing reimbursement</p> <p>21 for were -- were not -- did not have patients</p> <p>22 that were being billed through Medicare and</p> | <p style="text-align: right;">Page 120</p> <p>1 Q. -- in '91?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. What do you mean by "systems"? The</p> <p>5 actual systems that they used?</p> <p>6 Q. Well, Medicaid -- Let's just say</p> <p>7 Medicare or Medicaid programs.</p> <p>8 MS. CITERA: Object to the form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Again, I knew how to submit claims to</p> <p>11 Medicare for TPN and enteral patients who were</p> <p>12 covered under the prosthetic device benefit. And</p> <p>13 then I knew how to submit the forms to Illinois</p> <p>14 Medicaid for Medicaid patients.</p> <p>15 Q. Okay. Well, let's start with Medicare.</p> <p>16 How did you submit claims to Medicare?</p> <p>17 A. We -- It was using the -- I believe --</p> <p>18 It's been such a long time. I believe it's a</p> <p>19 1600 or 1500 form.</p> <p>20 Q. Is it a HCFA-1500; does that ring a</p> <p>21 bell?</p> <p>22 A. That's it. That's it. Completing a</p> |
| <p style="text-align: right;">Page 119</p> <p>1 Medicaid. I did do some claims for Medicare for</p> <p>2 TPN and enteral patients, and I did have to</p> <p>3 submit some claims for -- to Illinois Medicaid</p> <p>4 for one of the partners that we had.</p> <p>5 Q. Okay. And what was your familiarity --</p> <p>6 This was '91 through what time period?</p> <p>7 A. Just in '91 because that was the last</p> <p>8 year I was doing reimbursement.</p> <p>9 Q. Okay. So your knowledge would have</p> <p>10 been -- is it fair to say it would have been</p> <p>11 confined to what you were doing within home</p> <p>12 infusion reimbursement?</p> <p>13 A. Right, submitting -- submitting claims</p> <p>14 to Illinois Medicaid for patients whose insurance</p> <p>15 company was -- who was insured through Illinois</p> <p>16 Medicaid.</p> <p>17 Q. Okay. Other than during this '91 time</p> <p>18 period -- Well, let me ask you, what was your</p> <p>19 knowledge or familiarity with Medicaid or</p> <p>20 Medicare reimbursement systems --</p> <p>21 MS. CITERA: Object to form.</p> <p>22 BY MS. ST. PETER-GRIFFITH:</p> | <p style="text-align: right;">Page 121</p> <p>1 form depending on how Medicare paid for those two</p> <p>2 therapies, which was -- there was -- I think</p> <p>3 there were five HCPCS codes that you could use to</p> <p>4 bill for Medicare, one for a pump, one for the</p> <p>5 TPN solution, one for supplies, one for flushing</p> <p>6 supplies, and one for lipids if the patient was</p> <p>7 receiving IV fats.</p> <p>8 And there was something similar for</p> <p>9 Medicaid -- I mean, not for Medicaid -- for</p> <p>10 enteral nutrition for the pump, the enteral</p> <p>11 nutrition, and the supplies that they used to do</p> <p>12 tube feedings. So that was on the majority of my</p> <p>13 -- of how to bill Medicare for those therapies.</p> <p>14 For Medicaid, Illinois had specific</p> <p>15 forms that you had to fill out where you had to</p> <p>16 itemize, if I recall this correctly -- again,</p> <p>17 it's been a long, long time -- where you had to</p> <p>18 go in and itemize each item that the patient was</p> <p>19 receiving, and then Illinois would reimburse</p> <p>20 based on whatever they thought the appropriate</p> <p>21 reimbursement would be for those products.</p> <p>22 Q. Okay. Anything else that you can</p> |

31 (Pages 118 to 121)

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| <p style="text-align: right;">Page 122</p> <p>1 recall?</p> <p>2 A. I know that for a period of time, we</p> <p>3 were able to bill Medicare for pain management</p> <p>4 and liver cancer. And I think for a short period</p> <p>5 of time, IV vancomycin was covered. But I never</p> <p>6 submitted any -- I never had to submit claims for</p> <p>7 those therapies, so I'm not exactly sure how to</p> <p>8 do that.</p> <p>9 Q. Okay. Anything else that you can</p> <p>10 recall?</p> <p>11 MS. CITERA: Object to the form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. That's really all I can recall about</p> <p>14 how to bill for Medicare and Medicaid based on</p> <p>15 what I was doing in 1991.</p> <p>16 Q. Okay. What about after '91? Did you</p> <p>17 have any knowledge -- do you have any knowledge</p> <p>18 of Medicaid and Medicare reimbursement systems or</p> <p>19 programs after '91?</p> <p>20 MS. CITERA: Object to the form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. No, because I was in Product Sales by</p> | <p style="text-align: right;">Page 124</p> <p>1 information to different Medicaid programs would</p> <p>2 impact Medicaid reimbursement?</p> <p>3 MS. CITERA: Object to the form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. No. My understanding of the program</p> <p>6 was that this was to pay the rebates to the State</p> <p>7 for the products that were being dispensed to</p> <p>8 patients. I never connected paying the rebates</p> <p>9 to reimbursement.</p> <p>10 Q. Okay. Do you have -- For the time</p> <p>11 period from '91 through '03, do you have any</p> <p>12 other knowledge of Medicaid or Medicare</p> <p>13 reimbursement programs or systems that we haven't</p> <p>14 already discussed?</p> <p>15 MS. CITERA: Object to the form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Not that I can recall.</p> <p>18 Q. Okay. Ma'am, for the time period from</p> <p>19 '91 to '03, do you have an understanding of the</p> <p>20 meaning of AWP as that term is used in the</p> <p>21 Medicare or Medicaid reimbursement programs or</p> <p>22 systems?</p> |
| <p style="text-align: right;">Page 123</p> <p>1 that time, and so we were -- we were actually</p> <p>2 selling the products to other people who were</p> <p>3 using them for any type of services that they</p> <p>4 were providing for patients. So I essentially</p> <p>5 did not have any -- I wasn't involved in any</p> <p>6 changes that could have taken place with Medicare</p> <p>7 or Medicaid after that.</p> <p>8 Q. Well, you were involved for a period of</p> <p>9 time late during your tenure in Alt Site with</p> <p>10 reporting to state Medicaid agencies, weren't</p> <p>11 you?</p> <p>12 A. Right.</p> <p>13 MS. CITERA: Object to the form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I'm sorry. I was thinking in terms of</p> <p>16 submitting claims to it as opposed --</p> <p>17 Q. I got you. I got you.</p> <p>18 Did you have any -- During your tenure</p> <p>19 in Alt Site when you were responsible for</p> <p>20 submitting information to state Medicaid</p> <p>21 programs, did you have an understanding or any</p> <p>22 knowledge of how the submission of that</p> | <p style="text-align: right;">Page 125</p> <p>1 MS. CITERA: Object to the form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. As I said last summer when we -- when</p> <p>4 we talked about this, I know that AWP stood for</p> <p>5 average wholesale price; but I never really</p> <p>6 understood what that meant. And I knew it was a</p> <p>7 calculation, and I knew that it was being used</p> <p>8 for reimbursement; but I never really understood</p> <p>9 what average wholesale price could have been.</p> <p>10 Q. Okay. So is it fair to say that you</p> <p>11 don't have an understanding or knowledge of the</p> <p>12 meaning of AWP as that term is used in Medicare</p> <p>13 and Medicaid reimbursement systems or programs?</p> <p>14 MS. CITERA: Object to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Well, again, I know it stood for</p> <p>17 average wholesale price; but I never quite</p> <p>18 understood what that meant from a price</p> <p>19 perspective or --</p> <p>20 Q. Okay.</p> <p>21 A. Okay.</p> <p>22 Q. Well, do you have any other</p> |

32 (Pages 122 to 125)

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| <p style="text-align: right;">Page 126</p> <p>1 understanding as to the meaning of AWP as that</p> <p>2 term is used in the Medicare or Medicaid</p> <p>3 reimbursement systems?</p> <p>4 MS. CITERA: Object to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. No, I do not.</p> <p>7 Q. So we've exhausted your knowledge or</p> <p>8 understanding of that meaning as we've discussed?</p> <p>9 MS. CITERA: Object to the form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Do you, Ms. Leone, have</p> <p>13 knowledge or an understanding of the calculation</p> <p>14 of AWP for pharmaceutical products?</p> <p>15 MS. CITERA: Object to the form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I think we talked about this last</p> <p>18 summer in my deposition also. I know that it was</p> <p>19 calculated by the compendia based on information</p> <p>20 provided by a manufacturer.</p> <p>21 Q. Okay. Hello?</p> <p>22 A. Hello, I'm here.</p> | <p style="text-align: right;">Page 128</p> <p>1 Abbott?</p> <p>2 MS. CITERA: Object to the form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I don't know what that question means.</p> <p>5 Q. Okay. Do you have any knowledge or</p> <p>6 understanding of the lack of product sales</p> <p>7 between the United States and Abbott?</p> <p>8 MS. CITERA: Object to the form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. You mean the government buying Abbott</p> <p>11 products?</p> <p>12 Q. Well, I don't know. I'm asking you.</p> <p>13 If you don't understand the sentence, then it's</p> <p>14 fair to say no too.</p> <p>15 A. Okay.</p> <p>16 Q. But do you have any knowledge or</p> <p>17 understanding of the lack of direct transactions</p> <p>18 between the United States and Abbott?</p> <p>19 MS. CITERA: Object to the form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. And, again, I guess what I don't</p> <p>22 understand is what you mean by "lack of direct</p> |
| <p style="text-align: right;">Page 127</p> <p>1 Q. Yeah, I'm sorry. We're getting a</p> <p>2 little bit fuzzy, which concerns me because</p> <p>3 sometimes that means that the US Attorney's phone</p> <p>4 system is going to konk out. So if it does, I</p> <p>5 will try to call you guys on my BlackBerry. Can</p> <p>6 you hear me okay?</p> <p>7 A. Yes.</p> <p>8 Q. Ma'am, do you have any other</p> <p>9 understanding or knowledge of the calculation of</p> <p>10 AWP for pharmaceutical products?</p> <p>11 MS. CITERA: Object to the form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. Other than what I just described, no.</p> <p>14 Q. Okay. So we've exhausted your</p> <p>15 knowledge on the calculation of AWP for</p> <p>16 pharmaceutical products?</p> <p>17 MS. CITERA: Object to the form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Ma'am, do you have any knowledge</p> <p>21 or understanding of the lack of direct</p> <p>22 transactions between the United States and</p> | <p style="text-align: right;">Page 129</p> <p>1 transactions," what that means. So I can't</p> <p>2 answer the question.</p> <p>3 Q. Okay. That's fine. Then we'll move</p> <p>4 on.</p> <p>5 Do you have an understanding, ma'am, or</p> <p>6 do you have any knowledge of the lack of any</p> <p>7 misrepresentations between the United States --</p> <p>8 or I'm sorry -- to the United States concerning</p> <p>9 AWP for the subject drugs?</p> <p>10 MS. CITERA: Object to the form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I don't know anything about what you</p> <p>13 just said.</p> <p>14 Q. Okay. Ma'am, do you have any knowledge</p> <p>15 or understanding about the lack of any fraud</p> <p>16 committed by Abbott --</p> <p>17 MS. CITERA: Objection to the form.</p> <p>18 BY MS. ST. PETER-GRIFFITH:</p> <p>19 Q. -- to the Medicaid or Medicare</p> <p>20 programs?</p> <p>21 MS. CITERA: Objection to the form.</p> <p>22 BY THE WITNESS:</p> |

33 (Pages 126 to 129)

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| <p style="text-align: right;">Page 130</p> <p>1 A. So is the question did Abbott think 2 they committed fraud or do I know that Abbott 3 thought they committed fraud; is that the 4 question you're asking? 5 Q. You're free to answer both questions. 6 MS. CITERA: Objection to the form. 7 BY THE WITNESS: 8 A. I don't understand the question that 9 you're asking me to answer. 10 Q. Okay. Well, then, that's fine. Let me 11 try and ask it this way: During your tenure as 12 an Abbott employee, were you aware of any 13 violations of the Medicare or Medicaid statutes 14 or regulations while you were at Abbott? 15 MS. CITERA: Object to the form. I'd 16 also counsel you not to reveal any discussions 17 you had with counsel. 18 BY THE WITNESS: 19 A. I was not aware that there was -- that 20 Abbott did that, that Abbott could have done 21 that. 22 Q. That Abbott could have done what?</p> | <p style="text-align: right;">Page 132</p> <p>1 BY THE WITNESS: 2 A. I am not aware Abbott violated any of 3 those regulations. 4 Q. And that's based upon your personal 5 experience with Abbott; is that correct? 6 A. Yeah, that's strictly based on my 7 personal experience and understanding, yes. 8 Q. Are you aware of any measures that 9 Abbott undertook to ensure that it did not 10 violate Medicare or Medicaid statutes or 11 regulations? 12 MS. CITERA: Objection to the form. 13 Also the same instruction. 14 BY THE WITNESS: 15 A. Abbott had -- No, I am not aware of 16 that. 17 Q. You're not aware of any measures that 18 Abbott undertook to ensure that it did not 19 violate the Medicare Medicaid statutes or 20 regulations? 21 MS. CITERA: Objection to the form. 22 BY THE WITNESS:</p> |
| <p style="text-align: right;">Page 131</p> <p>1 A. However you phrased that. 2 Q. Okay. Violated the Medicare or 3 Medicaid statutes or regulations? 4 A. Yeah, I don't know that Abbott did 5 that, violated any of the fraud and abuse 6 statutes. 7 Q. That's based on your knowledge and 8 experience with Abbott? 9 MS. CITERA: Object to the form. 10 BY THE WITNESS: 11 A. Yeah, I do not believe -- Well, I do 12 not know that Abbott or -- there was never 13 anything -- See, I'm not sure what I'm answering. 14 Q. Okay. It's very simple. Let me -- 15 MS. CITERA: It's actually not. 16 BY MS. ST. PETER-GRIFFITH: 17 Q. Let me try and simplify it, I should 18 say. Are you aware of Abbott at any time during 19 your tenure as an employee at Abbott violating 20 any Medicare or Medicaid statutes or regulations? 21 MS. CITERA: Objection to form. Also 22 the same caution.</p> | <p style="text-align: right;">Page 133</p> <p>1 A. I'm sorry. I misunderstood the 2 question. 3 Q. That's why I asked it again. 4 A. Yes. We had -- Abbott had in place 5 operating -- policies, corporate policies that 6 were created and developed with our legal 7 department and our Office of Ethics and 8 Compliance that were the policies that we 9 operated under as Abbott employees. And there 10 were the corporate policies, and then there were 11 divisional procedures for -- for each one of the 12 divisions to make sure that they acted within 13 those -- make sure that they acted within those 14 corporate policies. 15 Q. Okay. Let me -- 16 A. So we did have that. 17 Q. -- let me start with the corporate 18 policies -- First let me start with the Office of 19 Ethics and Compliance. When did the Office of 20 Ethics and Compliance within Abbott, when was it 21 formulated? 22 A. I don't know.</p> |

34 (Pages 130 to 133)

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| <p style="text-align: right;">Page 134</p> <p>1 Q. Do you recall whether it existed prior 2 to 2000?</p> <p>3 A. I don't know when it -- when it was 4 initiated.</p> <p>5 Q. Okay. If you had a question concerning 6 ethics or compliance matters prior to 2001, who 7 would you take those concerns to?</p> <p>8 A. We would probably start with our 9 counsel, go to our counsel and work with them; 10 and then based on direction from them, we would 11 take it from there.</p> <p>12 Q. Okay. When you say "counsel," do you 13 mean in-house counsel?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know whether the Abbott in-house 16 lawyer was also during -- prior to 2001 the 17 corporate ethics officer?</p> <p>18 MS. CITERA: Object to the form. 19 BY THE WITNESS:</p> <p>20 A. I do not recall within our in-house 21 counsel who had responsibility for what during 22 that period of time.</p> | <p style="text-align: right;">Page 136</p> <p>1 Q. Okay. Do you recall taking questions 2 concerning ethics and compliance to Honey Lynn 3 Goldberg?</p> <p>4 MS. CITERA: I object to the form. I'm 5 also going to caution you that's a yes or no, not 6 to reveal what you discussed, if you did discuss 7 anything.</p> <p>8 BY THE WITNESS:</p> <p>9 A. What I meant to say was if we had 10 questions, the person we would probably start 11 with would be Honey Lynn or someone in her 12 organization.</p> <p>13 Q. Okay. And my question, though, is, do 14 you ever recall taking any questions to her?</p> <p>15 A. I did not take any questions to her.</p> <p>16 Q. Do you recall whether any of your 17 employees within Alt Site who were under your 18 supervision took questions to her?</p> <p>19 A. I don't recall that that ever happened 20 during my tenure in Alternate Site Product Sales.</p> <p>21 Q. And as --</p> <p>22 A. As the manager.</p> |
| <p style="text-align: right;">Page 135</p> <p>1 Q. Okay. What about after 2001? Who 2 would you take your concerns about or your 3 questions about ethics and compliance -- And when 4 I say "compliance," I mean compliance with state 5 and federal statutes -- who would you take those 6 concerns to?</p> <p>7 MS. CITERA: Objection to the form. 8 BY THE WITNESS:</p> <p>9 A. I think again at that point, we 10 probably still would have started with our 11 counsel, in-house counsel, and then they would 12 have directed us to someone else.</p> <p>13 Q. Was there someone within your in-house 14 counsel's office you were familiar with that you 15 could take these questions to?</p> <p>16 MS. CITERA: Object to the form. 17 BY THE WITNESS:</p> <p>18 A. I think we would take them to -- If I 19 recall correctly, we probably started with Honey 20 Lynn Goldberg at the time and then somebody else 21 -- and then whoever she would designate for us to 22 work with after that.</p> | <p style="text-align: right;">Page 137</p> <p>1 Q. As the manager, do you think that you 2 would have learned if a concern had been taken?</p> <p>3 A. Yes.</p> <p>4 Q. What about when you were in Alt Site? 5 Do you recall taking any ethics and compliance 6 questions to in-house counsel?</p> <p>7 A. That was what I was just addressing, 8 was Alt Site.</p> <p>9 Q. I'm sorry, Home Infusion. When you 10 were in Home Infusion, do you recall having any 11 ethics or compliance questions that you took to 12 in-house counsel?</p> <p>13 A. I would have probably taken it to my 14 manager, and I don't recall ever having any 15 questions regarding that.</p> <p>16 Q. Okay. What about after, in '03 when 17 you were in Contract Marketing? Do you recall 18 taking any ethics and compliance questions to in- 19 house counsel?</p> <p>20 A. I don't recall taking any questions to 21 them because, at that point, I was more focused 22 on our internal activities.</p> |

35 (Pages 134 to 137)

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January 17, 2008

Chicago, IL

| Page 138 | Page 140 |
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| <p>1 Q. Okay. Developing different policies 2 and procedures, you mean?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. And I did -- I mean, I did have some 6 conversations with the Office of Ethics and 7 Compliance about what we were putting into place 8 within our organization. But, again, it wasn't 9 related to fraud and abuse and the Antikickback. 10 It was regarding what we were trying to implement 11 in the department.</p> <p>12 Q. Okay. The procedures that you did take 13 to the Office of Ethics and Compliance, why did 14 you take them there?</p> <p>15 MS. CITERA: Objection to the form. 16 BY THE WITNESS:</p> <p>17 A. Some of it was related to the policies, 18 the corporate policies that were implemented and 19 then the divisional policies that were created -- 20 that were created for the Hospital Products 21 Division in relationship to those corporate 22 policies. I was -- I was involved in writing</p> | <p>1 why you needed to develop these policies and 2 procedures?</p> <p>3 MS. CITERA: Object to the form. 4 BY THE WITNESS:</p> <p>5 A. You know, I think it did have -- I 6 think it had something to do with that corporate 7 integrity agreement, yes.</p> <p>8 Q. Okay. What -- What particular policies 9 and procedures did you develop?</p> <p>10 A. I developed one for discounts and 11 rebates, for no-charge products, for -- There was 12 one for reimbursement, one for group purchasing 13 organization relationships, one for -- one or two 14 relating to how we handled receivables. I think 15 -- Is that seven? That's what I can remember.</p> <p>16 MS. CITERA: I didn't count. 17 BY MS. ST. PETER-GRIFFITH:</p> <p>18 Q. I've got I think five here. That's all 19 you can remember?</p> <p>20 A. Yeah.</p> <p>21 Q. Who asked you to develop them?</p> <p>22 A. Katherine Zasdenoff from our Office of</p> |
| Page 139 | Page 141 |
| <p>1 those HPD policies -- HPD procedures for us based 2 on those corporate policies.</p> <p>3 Q. Okay. What corporate policies are you 4 referencing?</p> <p>5 A. I believe we called them "Federal 6 Healthcare Program Guidelines." I believe that 7 was the -- I believe that was what they were -- 8 that they were called, and I think there were six 9 or seven of them.</p> <p>10 Q. Okay. And do you know why -- When were 11 they created?</p> <p>12 A. I think that was the 2002/2003 time 13 frame, but I can't remember exactly.</p> <p>14 Q. Do you know whether they were created 15 incident to Abbott's entry into a corporate 16 integrity agreement with the United States?</p> <p>17 MS. CITERA: Objection to form. 18 BY THE WITNESS:</p> <p>19 A. I think it was probably about the same 20 time. I can't answer whether that was the reason 21 why.</p> <p>22 Q. Well, was a reason given to you as to</p> | <p>1 Ethics and Compliance, from the Abbott Office of 2 Ethics and Compliance.</p> <p>3 Q. Now, during this period in '03, were 4 these the only project you were working on, the 5 development of these particular policies; or were 6 there other items you were working on?</p> <p>7 A. Well, I was responsible for the 8 training activities for the individuals within 9 Contract Marketing; and I was also working with 10 legal counsel to develop all of the contract 11 templates that we use for writing -- writing 12 contracts with all of the Hospital Products 13 Division customers.</p> <p>14 Q. Okay. Why were you changing the 15 contract templates?</p> <p>16 A. What we had determined is that we had a 17 lot of different templates based on the different 18 products that we were selling, and what we said 19 is we really need to standardize these. And so 20 what we did is we came back and looked at all of 21 them and standardized so that they would all -- 22 they were all in the some format. We made sure</p> |

36 (Pages 138 to 141)

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| <p style="text-align: right;">Page 142</p> <p>1 that we had all of the same clauses in them that 2 needed to be in those agreements. And then we 3 identified, you know, if we were going to -- to 4 write a contract with a customer for this 5 product, this product line, we wanted to make 6 sure that there were some things that were 7 included for that, for those products. And if 8 there was different products, there were other 9 things we included in a different template. So 10 we just looked at what we had been doing and said 11 we need to get standardized a little more on what 12 was being written. 13 Q. Okay. Did the decision to change the 14 contract templates have anything to do with the 15 corporate integrity agreement? 16 MS. CITERA: Object to the form. 17 BY THE WITNESS: 18 A. No. That project actually started 19 before that, and there were other people working 20 on it before I came back into the department; and 21 then they gave that to me as one of my 22 responsibilities.</p> | <p style="text-align: right;">Page 144</p> <p>1 we discussed, your training activities, and your 2 development of the contract templates, do you 3 have any other responsibilities? 4 A. No, because that was pretty much full- 5 time. 6 Q. Sounds like it could be. 7 A. Yeah. 8 Q. Did you have any responsibilities with 9 regard to preparing for the spin of Hospira -- 10 Hospira? 11 A. I was peripherally involved in the 12 order to cash team, and that was only near the 13 end. And that was making sure that when -- And 14 part of this was because I had been on the SAP 15 project a couple years earlier when we moved to 16 SAP for order management. They brought me in on 17 the spin stuff because of my knowledge of the 18 order management system, the SAP system, which we 19 were keeping even though we were separating from 20 Abbott. So we were still keeping SAP for order 21 management. So they included me on that team to 22 make sure that all of those things -- we could</p> |
| <p style="text-align: right;">Page 143</p> <p>1 Q. Okay. What training activities did you 2 undertake? 3 A. We have -- We have over -- We had and 4 still do today as Hospira, over a hundred people 5 in Contract Marketing. And we were implementing 6 training activities to teach new people how to 7 use our Contract Marketing systems. We have -- 8 And we have four or five systems, so it was how 9 to use those. We did training on how to use Word 10 and Excel. What we did is we actually created a 11 class that taught people all of the functions of 12 Excel that were used most frequently in Contract 13 Marketing, so it was really a focused class. 14 We also had some classes that we called 15 Management Development, and those were actually 16 courses that people could take to get them 17 additional skill sets to possibly get them ready 18 for another position in another area. So those 19 were the types of training activities that I was 20 responsible for. 21 Q. Okay. And during the time period, 22 other than developing these six or seven policies</p> | <p style="text-align: right;">Page 145</p> <p>1 continue to have customers place orders and get 2 invoiced correctly. 3 Q. Going back to the corporate policies 4 that we were discussing earlier concerning 5 Medicare and Medicaid compliance, do you recall 6 what particular policies were developed? 7 MS. CITERA: Object to the form. 8 BY THE WITNESS: 9 A. Well -- And, again, we created -- There 10 was an -- There was an Abbott corporate policy, 11 and we created HPD procedures for each one of 12 those; and that's what I was describing. 13 Q. Okay. So what you were describing, 14 then, were the division -- That leads to my next 15 question -- were the divisional procedures that 16 were developed pursuant to the Abbott corporate 17 policy? 18 A. Right. And I was developing those for 19 the Hospital Products Division. 20 Q. Okay. Prior to this '02 to '03 time 21 frame, what corporate policy or divisional 22 policies do you recall being in place concerning</p> |

37 (Pages 142 to 145)

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| <p style="text-align: right;">Page 146</p> <p>1 Medicare or Medicaid statutory and regulatory 2 compliance? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. I don't recall what types of procedures 6 and policies we had in place before that. 7 Q. Do you know whether there were any in 8 place? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. No, I do not know. 12 Q. Ma'am, do you recall or are you 13 familiar with the term "spread"? 14 A. Yeah, we discussed that in -- last 15 summer. 16 Q. Okay. Do you recall any policies or 17 procedures concerning the sales force members 18 discussing spread or the difference between 19 contract price and AWP? 20 MS. CITERA: Objection to the form. 21 BY THE WITNESS: 22 A. I do not recall whether or not we had a</p> | <p style="text-align: right;">Page 148</p> <p>1 A. It was a document that was created -- I 2 was in Alternate Site at the time. And it was a 3 document that was created on the hospital side 4 for, I believe, the hospital pricing analysts to 5 use when they were writing contracts for 6 customers. 7 Q. Okay. Do you remember when it was 8 developed? 9 A. No. Like I said, I know it was when I 10 was in Alternate Site. I'm thinking somewhere 11 between '98 and 2000; but I don't remember 12 exactly when it was, when it was initially 13 created. 14 Q. Do you remember how long it was in 15 place for? 16 MS. CITERA: Object to the form. 17 BY THE WITNESS: 18 A. No, I do not recall how long it was in 19 place. 20 Q. Do you recall seeing it when you 21 returned to Contract Marketing in '03? 22 A. No, I do not. It was -- I do not</p> |
| <p style="text-align: right;">Page 147</p> <p>1 policy that discussed that. 2 Q. Okay. 3 A. I do believe, though, that when we did 4 -- And I'd have to go back and review it. It's 5 been a while. But I do believe that the 6 reimbursement policy that was written and then 7 the HPD procedure that was written in 8 relationship to that, there was something that 9 referenced AWP, although I can't remember exactly 10 what -- what it was, but that we did not discuss 11 it and what the policy would be on that. But I 12 don't recall whether we had something prior to 13 that. 14 Q. Okay. When you say -- Are you talking 15 about the policies that you participated in 16 drafting in '02 and '03? 17 A. Yes. 18 Q. Okay. Ma'am, do you -- are you 19 familiar with the Contract Marketing Basic 20 Operating Procedures Manual? 21 A. Yes. 22 Q. What is that document?</p> | <p style="text-align: right;">Page 149</p> <p>1 believe it was in place -- I do not believe it 2 was being used anymore. 3 Q. In '03? 4 A. Yes. 5 Q. Okay. Did you have access to it when 6 you were in Alt Site? 7 A. Yes. 8 Q. And what did you use that -- the 9 Contract Marketing Basic Operating Procedures 10 Manual for when you were in Alt Site? 11 MS. CITERA: Object to the form. 12 BY THE WITNESS: 13 A. We did not use it in Alternate Site. I 14 think that there was -- At one point, we looked 15 at it and talked about creating some type of a 16 comparable document for us in Alt Site. But as I 17 recall, we never moved forward with doing 18 anything along those lines. 19 Q. Do you recall any discussion about the 20 accuracy or utility of the document? 21 MS. CITERA: Objection to form. 22 BY THE WITNESS:</p> |

38 (Pages 146 to 149)

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| <p style="text-align: right;">Page 150</p> <p>1 A. I think that may have been part of the</p> <p>2 reason why we never adopted it, but I don't</p> <p>3 recall any specific conversations where we</p> <p>4 discussed it.</p> <p>5 Q. Okay. Ma'am, are you familiar with</p> <p>6 Virginia Tobiason?</p> <p>7 A. Yes.</p> <p>8 Q. Who is she?</p> <p>9 A. I believe she's still at Abbott today.</p> <p>10 In -- doing re- -- something in their Office of</p> <p>11 Ethics and Compliance for reimbursement. But I</p> <p>12 worked for Virginia when I was in Home Infusion</p> <p>13 Services.</p> <p>14 Q. Okay. And how was your relationship</p> <p>15 with her?</p> <p>16 MS. CITERA: Object to the form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I liked Ginnie.</p> <p>19 Q. Okay. How was she as a manager?</p> <p>20 MS. CITERA: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. She was different.</p> | <p style="text-align: right;">Page 152</p> <p>1 in Home Infusion until it closed down. We did</p> <p>2 work together for a period of time; but I don't</p> <p>3 remember when he started and when, you know,</p> <p>4 versus when I left in '96. But we did work</p> <p>5 together for a while.</p> <p>6 Q. Okay. Other than your work with her in</p> <p>7 Home Infusion, did you work with Virginia</p> <p>8 Tobiason at any other time?</p> <p>9 A. When I was working on the HPD operating</p> <p>10 procedures, I worked with Ginnie to create the</p> <p>11 HPD procedure for reimbursement.</p> <p>12 Q. Okay.</p> <p>13 A. And --</p> <p>14 Q. And how did that -- What were your</p> <p>15 contributions to that project, and what were her</p> <p>16 contributions to that project?</p> <p>17 A. I was --</p> <p>18 MS. CITERA: Object to the form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I was really struggling with how to</p> <p>21 write it, and Ginnie gave me a very good draft of</p> <p>22 what we should say in the procedure. And then I</p> |
| <p style="text-align: right;">Page 151</p> <p>1 Q. How was she different?</p> <p>2 A. She had good days and bad days as a</p> <p>3 manager.</p> <p>4 Q. Okay. And what do you mean she had</p> <p>5 good days and bad days?</p> <p>6 A. There were -- There were days when</p> <p>7 working with Ginnie was a joy. She knew --</p> <p>8 Ginnie knew everything that there was to know</p> <p>9 about what -- her area of responsibility. She's</p> <p>10 very, very bright; but sometimes she was a little</p> <p>11 moody.</p> <p>12 Q. Okay. Did her moodiness affect her</p> <p>13 relationships?</p> <p>14 MS. CITERA: Object to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. It may have.</p> <p>17 Q. Okay. Do you know Mr. Bruce Rodman?</p> <p>18 A. Yes.</p> <p>19 Q. Who is he?</p> <p>20 A. He was -- He worked in reimbursement in</p> <p>21 Home Infusion Services. I don't exactly remember</p> <p>22 when he started in reimbursement, but he stayed</p> | <p style="text-align: right;">Page 153</p> <p>1 was able to fill in all of the rest of the blanks</p> <p>2 regarding who the responsible parties would be</p> <p>3 and how we would handle things from a</p> <p>4 reimbursement perspective within HPD.</p> <p>5 Q. Do you know where she got the draft</p> <p>6 from, or did she write it?</p> <p>7 A. No, I don't know where she got it from</p> <p>8 or whether she wrote it.</p> <p>9 Q. Okay. Any other interaction with</p> <p>10 Virginia Tobiason?</p> <p>11 A. Not on a business basis.</p> <p>12 Q. Okay. Do you have a personal</p> <p>13 relationship with her?</p> <p>14 MS. CITERA: Object to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. We had -- You know, we would</p> <p>17 periodically get together, mostly when I was</p> <p>18 working in Home Infusion Services. But I saw her</p> <p>19 a couple of times -- you know, after she left</p> <p>20 Home Infusion, she went to the Diagnostics</p> <p>21 division before she went to the Office of Ethics</p> <p>22 and Compliance. So, you know, we'd kind of talk</p> |

39 (Pages 150 to 153)

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January 17, 2008

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| Page 154 | Page 156 |
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| <p>1 to each other now and then, find out what's going 2 on. 3 Q. Okay. Do you know, have you heard that 4 she may be retiring? 5 A. Good for her. 6 Q. Oh. I'm just wondering whether that 7 was something that you were aware of. 8 A. No, I'm not. 9 Q. Okay. You know, folks, what time do 10 you have because I'm about to -- I can start 11 launching into the documents. But if now is a 12 good breaking time, we can take a break as well. 13 MR. ANDERSON: We need to because of 14 the tape, and it's lunchtime so -- 15 MS. ST. PETER-GRIFFITH: Let's do that. 16 MR. ANDERSON: -- I think that's a good 17 idea. 18 MS. ST. PETER-GRIFFITH: Okay. 19 Everyone enjoy your lunch. Are we going to try 20 and reconvene back in about 45 minutes? 21 MR. ANDERSON: We'll connect the phone 22 -- you know, we'll recall in at 12:45.</p> | <p>1 Q. Well, I should have told you at the 2 beginning of the day that if there's anything you 3 can think of as we move along during the day, 4 feel free to pipe up and we can -- we can add 5 that to the record. 6 A. Okay. 7 Q. Ma'am, you had testified earlier that 8 Virginia Tobiason was extremely bright and knew 9 everything that there was to know about her area. 10 Do you remember that testimony? 11 A. Yes. 12 Q. What is Virginia Tobiason's area? 13 A. Virginia was the manager of 14 reimbursement when I was in Home Infusion 15 Services. 16 Q. Okay. So when you say "about her 17 area," do you mean about reimbursement services? 18 A. About the reimbursement services, about 19 what Abbott Home Infusion Services was doing from 20 a reimbursement perspective. And, again, that's 21 my opinion of what -- of Ginnie's area of 22 expertise.</p> |
| Page 155 | Page 157 |
| <p>1 MS. ST. PETER-GRIFFITH: Okay. Is that 2 good for everybody? Ms. Leone, does that give 3 you enough time? 4 THE WITNESS: Yes. 5 THE VIDEOGRAPHER: We are off the 6 record at 11:57 a.m. with the end of Tape No. 2. 7 (A short break was had.) 8 THE VIDEOGRAPHER: We are back on the 9 record at 12:58 p.m. with the start of Tape No. 10 3. 11 BY MS. ST. PETER-GRIFFITH: 12 Q. Welcome back, Ms. Leone. 13 A. Thank you. 14 Q. First, I want to ask, is there -- And I 15 should have asked this morning as well. Is there 16 any -- As you've had a lunch break, is there any 17 testimony that you've given so far today that 18 you've thought about and want to either augment 19 or change or supplement in any way? 20 MS. CITERA: Objection to the form. 21 BY THE WITNESS: 22 A. Not at this -- not that I can think of.</p> | <p>1 Q. Do you believe that she's -- that she 2 can continues to this day to have that area of 3 expertise? 4 MS. CITERA: Objection to form. 5 BY THE WITNESS: 6 A. I don't -- I don't know. 7 Q. Okay. Ma'am, if you could -- 8 MS. ST. PETER-GRIFFITH: Jarrett, I'm 9 looking at file folder No. 4. 10 MR. ANDERSON: Yes. I'm marking it. 11 MS. ST. PETER-GRIFFITH: Can we start 12 with that document? 13 MR. ANDERSON: It's marked as Leone 14 Deposition Exhibit 1. 15 (Deposition Exhibit Leone 001 16 marked as requested.) 17 BY MS. ST. PETER-GRIFFITH: 18 Q. Okay. Ms. Leone, could you take a few 19 minutes and look at this document? 20 A. Okay. 21 Q. Okay. I appreciate that it's a May 27, 22 '92 document. But do you recall this document?</p> |

40 (Pages 154 to 157)

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January 17, 2008

Chicago, IL

| Page 158 | Page 160 |
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| <p>1 A. No.</p> <p>2 Q. Do you recall Abbott Home Infusion</p> <p>3 having a relationship with Cedars-Sinai Medical</p> <p>4 Center?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall an issue concerning the</p> <p>7 management price negotiations for Cedars and</p> <p>8 having authority of up to 20 percent discount on</p> <p>9 any therapy without the approval of Cedars?</p> <p>10 A. No, I don't.</p> <p>11 Q. Okay. Do you recall anything about the</p> <p>12 subject matter of this letter?</p> <p>13 A. No.</p> <p>14 Q. Okay. Do you have any doubt that you</p> <p>15 received a copy of this letter?</p> <p>16 A. I have no doubts that I received a copy</p> <p>17 of this letter.</p> <p>18 Q. Do you have any reason to dispute the</p> <p>19 accuracy of the information contained in this</p> <p>20 letter?</p> <p>21 A. No, I do not.</p> <p>22 MS. CITERA: Objection to form.</p> | <p>1 MS. CITERA: Yeah. Is that the page</p> <p>2 you're referring to --</p> <p>3 MS. ST. PETER-GRIFFITH: It's the page</p> <p>4 number at the top I'm referring to.</p> <p>5 MS. CITERA: I don't think you</p> <p>6 understood that.</p> <p>7 THE WITNESS: No.</p> <p>8 MS. ST. PETER-GRIFFITH: It should be</p> <p>9 Home Infusion Therapy Agreement.</p> <p>10 MS. CITERA: Yeah, yeah. It's just she</p> <p>11 was just thinking the sixth page of the entire</p> <p>12 document.</p> <p>13 MS. ST. PETER-GRIFFITH: Oh, I'm sorry.</p> <p>14 THE WITNESS: Okay. 6, 7, and 8,</p> <p>15 correct?</p> <p>16 BY MS. ST. PETER-GRIFFITH:</p> <p>17 Q. Yes.</p> <p>18 A. Okay.</p> <p>19 Q. First, flipping to the first page of</p> <p>20 this agreement or of this exhibit, ma'am, do you</p> <p>21 recognize this document?</p> <p>22 A. Again, no.</p> |
| Page 159 | Page 161 |
| <p>1 BY THE WITNESS:</p> <p>2 A. I'm sorry. No, I do not.</p> <p>3 MS. ST. PETER-GRIFFITH: Okay.</p> <p>4 Jarrett, if we could move on to No. 5.</p> <p>5 MR. ANDERSON: I'm handing the witness</p> <p>6 what's now been marked as Leone Deposition</p> <p>7 Exhibit No. 2.</p> <p>8 (Deposition Exhibit Leone 002</p> <p>9 marked as requested.)</p> <p>10 BY MS. ST. PETER-GRIFFITH:</p> <p>11 Q. Ma'am, I appreciate that this is a</p> <p>12 longer document. I can -- You're welcome to read</p> <p>13 the entire document, but I can tell you the pages</p> <p>14 that I am going to ask you questions about --</p> <p>15 A. Okay.</p> <p>16 Q. -- are Pages 6, 7, 8, and 11.</p> <p>17 A. Okay.</p> <p>18 MS. CITERA: Just to be clear, 6 like</p> <p>19 the sixth page of the document, not 6, because</p> <p>20 some of these pages are numbered?</p> <p>21 MS. ST. PETER-GRIFFITH: It's numbered</p> <p>22 at the top.</p> | <p>1 Q. Okay. Were you familiar with the</p> <p>2 Licking Memorial Hospital, or LMH, home infusion</p> <p>3 account within Home Infusion Services?</p> <p>4 A. Yes, I was.</p> <p>5 Q. Was that an account that you worked on?</p> <p>6 A. Yes, it was.</p> <p>7 Q. Ma'am, if you could turn to Page 6,</p> <p>8 could you tell me under sub -- under Paragraph 8,</p> <p>9 Reimbursement Services, do you see that? And</p> <p>10 there's an enumerated A through F?</p> <p>11 A. Yes.</p> <p>12 Q. Were those services that were provided</p> <p>13 by Abbott Home Infusion to LMH?</p> <p>14 A. To the best of my knowledge, yes, they</p> <p>15 were.</p> <p>16 Q. Were you responsible for providing</p> <p>17 those services?</p> <p>18 MS. CITERA: Objection to the form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. At one point, and I don't remember</p> <p>21 when, I was responsible for doing the</p> <p>22 reimbursement for Licking. And then -- and then</p> |

41 (Pages 158 to 161)

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| <p style="text-align: right;">Page 162</p> <p>1 later on, obviously in 1992 when we started doing</p> <p>2 case management -- but it looks as if this was</p> <p>3 cancelled by that time.</p> <p>4 Q. That this particular contract was</p> <p>5 cancelled by that time?</p> <p>6 A. No, wait a minute, because I went into</p> <p>7 that position.</p> <p>8 Q. Oh, I see.</p> <p>9 A. Yeah.</p> <p>10 Q. So is it your testimony that this</p> <p>11 contract had been cancelled by that time?</p> <p>12 A. No. As I'm looking at it, it looks</p> <p>13 like this contract started in '92 so -- If I</p> <p>14 recollect the history on Licking correctly, prior</p> <p>15 to my taking the case management position, I was</p> <p>16 going to be the reimbursement specialist for</p> <p>17 Licking. But by the time this contract was</p> <p>18 signed, I had moved over to the managed care</p> <p>19 position. So I did not -- I did not do the</p> <p>20 reimbursement services for them.</p> <p>21 Q. Okay. Do you know whether this</p> <p>22 contract looks similar or is a comparable</p> | <p style="text-align: right;">Page 164</p> <p>1 of the customers.</p> <p>2 Q. Okay. So you contracted to provide</p> <p>3 reimbursement services, but you also contracted</p> <p>4 to initiate legal proceedings on behalf of the</p> <p>5 partnership?</p> <p>6 A. Yes.</p> <p>7 Q. On behalf of the partner, I'm sorry.</p> <p>8 MS. CITERA: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Yes.</p> <p>11 Q. In the event an overdue account</p> <p>12 occurred?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Yes. I believe that when we contracted</p> <p>16 for reimbursement services, we also made -- this</p> <p>17 was an option that the customers could choose.</p> <p>18 Q. Okay. Do you know whether -- Did you</p> <p>19 sue on behalf of the client, or did you sue in</p> <p>20 Abbott's own name?</p> <p>21 MS. CITERA: Object to the form.</p> <p>22 BY THE WITNESS:</p> |
| <p style="text-align: right;">Page 163</p> <p>1 contract to other home infusion consignment</p> <p>2 partnerships that Abbott had?</p> <p>3 MS. CITERA: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Based on my review of these three</p> <p>6 pages, this appears to be comparable or similar</p> <p>7 to other contracts that were written for these</p> <p>8 services for home infusion.</p> <p>9 Q. Okay. If you could look under No. 9</p> <p>10 where it says "Overdue accounts," that first</p> <p>11 sentence of that section reads, "In the event an</p> <p>12 account is deemed uncollectible, Abbott may file</p> <p>13 legal proceedings to collect such overdue patient</p> <p>14 account"; do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Why is it that Abbott could file legal</p> <p>17 proceedings to collect the overdue patient</p> <p>18 account?</p> <p>19 MS. CITERA: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I think that was just included as part</p> <p>22 of the services that we would perform on behalf</p> | <p style="text-align: right;">Page 165</p> <p>1 A. I don't know the answer to that because</p> <p>2 I'm not sure if and when that ever happened, how</p> <p>3 it was done.</p> <p>4 Q. Okay. Do you recall any instance when</p> <p>5 Abbott initiated on behalf of a consignment</p> <p>6 partner a legal proceeding to collect overdue</p> <p>7 patient accounts?</p> <p>8 A. No, I do not recall whether that ever</p> <p>9 happened.</p> <p>10 Q. Okay. Under these consignment</p> <p>11 arrangements, who received the assignment of</p> <p>12 benefits?</p> <p>13 MS. CITERA: Objection, form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. The assignment of benefits was to the</p> <p>16 partner.</p> <p>17 Q. Okay. At all times?</p> <p>18 A. If -- If it was an arrangement that --</p> <p>19 where we were billing in that customer's name to</p> <p>20 the third-party payors, then the assignment of</p> <p>21 benefits was also in their name.</p> <p>22 Q. Would there be any other arrangement?</p> |

42 (Pages 162 to 165)

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| <p style="text-align: right;">Page 166</p> <p>1 Would there be an arrangement where under these</p> <p>2 partnerships, you would bill in Abbott's name?</p> <p>3 MS. CITERA: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I do not recall once we started writing</p> <p>6 contracts this way that there were ever any</p> <p>7 circumstances where -- when we had an arrangement</p> <p>8 like this, where we billed in Abbott's name as</p> <p>9 opposed to the partner's name.</p> <p>10 Q. Okay. Do you recall any -- Prior to</p> <p>11 the implementation of this particular contract</p> <p>12 type, do you recall instances where Abbott was in</p> <p>13 a consignment arrangement with a particular</p> <p>14 customer where Abbott billed under its provider</p> <p>15 number in its own name?</p> <p>16 MS. CITERA: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I don't recall any circumstances where</p> <p>19 that happened.</p> <p>20 Q. Okay. If you could flip to Page 7,</p> <p>21 Paragraph 10 where it says "Low Reimbursement</p> <p>22 Patients"; do you see that?</p> | <p style="text-align: right;">Page 168</p> <p>1 MS. CITERA: Objection to the form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I believe that when it was identified</p> <p>4 that there was limited or no insurance, that</p> <p>5 there were discussions to determine whether or</p> <p>6 not it was -- it made sense to take that patient</p> <p>7 on.</p> <p>8 Q. Okay. What about continuing with the</p> <p>9 patient if they lost their coverage or lost a</p> <p>10 portion of their coverage?</p> <p>11 MS. CITERA: Objection to the form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I'm not sure how those patients were</p> <p>14 handled.</p> <p>15 Q. Do you recall any instances where that</p> <p>16 occurred?</p> <p>17 A. Not that I can think of at this time.</p> <p>18 Q. Okay. If you could turn to Page 8,</p> <p>19 please, it says under paragraph -- or under Item</p> <p>20 No. 18, "Compensation: Billings for products and</p> <p>21 services provided under the terms of this</p> <p>22 agreement shall be submitted to third parties of</p> |
| <p style="text-align: right;">Page 167</p> <p>1 A. Yes.</p> <p>2 Q. What does that paragraph mean?</p> <p>3 MS. CITERA: Objection, form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. The paragraph, as I would interpret it,</p> <p>6 was written that if there's patients who do not</p> <p>7 have any type of insurance, whether it's</p> <p>8 Medicare, Medicaid, or private insurance, the</p> <p>9 parties are going to discuss whether it makes</p> <p>10 sense to take that patient on and provide</p> <p>11 services for them.</p> <p>12 Q. Well, does it also cover patients who</p> <p>13 might not have sufficient coverage as opposed to</p> <p>14 no coverage?</p> <p>15 A. It may.</p> <p>16 Q. Okay. And was that the practice when</p> <p>17 implementing these consignment contracts, if</p> <p>18 there was a patient who had insufficient</p> <p>19 reimbursement or no reimbursement, that Abbott</p> <p>20 would confer with the customer and then a</p> <p>21 decision would be made about whether or not to</p> <p>22 continue providing services to the client?</p> | <p style="text-align: right;">Page 169</p> <p>1 -- to the third party of medical benefits and/or</p> <p>2 the patient's"; do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. What were the patients billed in terms</p> <p>5 of the products?</p> <p>6 A. If, for instance, the customer had a</p> <p>7 policy where there was -- the insurance paid 80</p> <p>8 percent and there was a customer copay, and the</p> <p>9 same would hold true for Medicare, once the --</p> <p>10 once the Medicare claim was paid and there was a</p> <p>11 patient copay, we would -- the patient -- if the</p> <p>12 patient did not have secondary insurance of some</p> <p>13 sort or another, that patient would be balance</p> <p>14 billed.</p> <p>15 Q. Okay. And would that be part of the</p> <p>16 services that Abbott would provide, billing the</p> <p>17 patient?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Yes. That was part of the billing and</p> <p>21 reimbursement services.</p> <p>22 Q. Okay. As part of the billing and</p> |

43 (Pages 166 to 169)

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| <p style="text-align: right;">Page 170</p> <p>1 reimbursement services -- Or I'm sorry.</p> <p>2 As a reimbursement specialist, were you</p> <p>3 responsible for also identifying what collections</p> <p>4 needed to be collected from the consignment</p> <p>5 partner and paid back to Abbott?</p> <p>6 A. No.</p> <p>7 Q. If you could, last page, flip to Page</p> <p>8 11 and my -- the question I'm going to ask you</p> <p>9 pertains to Item No. 24. I know we discussed</p> <p>10 earlier whether or not these arrangements were</p> <p>11 joint ventures. But I want to ask you whether</p> <p>12 you recall the issue of joint ventureship with a</p> <p>13 consignment partner coming up --</p> <p>14 MS. CITERA: Objection.</p> <p>15 BY MS. ST. PETER-GRIFFITH:</p> <p>16 Q. -- at all during your tenure in Home</p> <p>17 Infusion?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. No, I do not.</p> <p>21 Q. Okay.</p> <p>22 MS. ST. PETER-GRIFFITH: Jarrett, if we</p> | <p style="text-align: right;">Page 172</p> <p>1 BY THE WITNESS:</p> <p>2 A. I believe -- And, again, it's been</p> <p>3 almost 15 years now that this -- Infusion Care</p> <p>4 Associates was one of those home infusion</p> <p>5 customers, and this was the maximum percentages</p> <p>6 that could be negotiated with the third-party</p> <p>7 payors on behalf of patients for Infusion Care</p> <p>8 Associates.</p> <p>9 Q. Can you explain what you mean by that?</p> <p>10 A. Well, for instance, in a negotiation</p> <p>11 with the insurance company for a patient who was</p> <p>12 on TPN, which is the first item on here, I was</p> <p>13 given the authority to negotiate up to a 50</p> <p>14 percent discount off of the billable charges for</p> <p>15 any TPN patients that they had.</p> <p>16 Q. Okay. And how were the billable</p> <p>17 charges determined?</p> <p>18 A. They're -- Every one of the -- The</p> <p>19 customers that we had relationships with had</p> <p>20 prices -- had a billable charge set up for all of</p> <p>21 the components of what they would be shipping to</p> <p>22 a patient who was on a home infusion therapy.</p> |
| <p style="text-align: right;">Page 171</p> <p>1 could move on to document No. 6 or File No. 6,</p> <p>2 which will be Exhibit 3, right?</p> <p>3 MR. ANDERSON: Yes. I am marking</p> <p>4 what's been marked as Exhibit 3 and providing</p> <p>5 that to the witness.</p> <p>6 (Deposition Exhibit Leone 003</p> <p>7 marked as requested.)</p> <p>8 BY MS. ST. PETER-GRIFFITH:</p> <p>9 Q. I'll give you a few minutes, and look</p> <p>10 at this.</p> <p>11 A. Okay.</p> <p>12 Q. Do you recognize this document, ma'am?</p> <p>13 A. No.</p> <p>14 Q. All right. Do you know whether you</p> <p>15 created it?</p> <p>16 A. I'm going to make the assumption that I</p> <p>17 did create it.</p> <p>18 Q. Is that because you are identified as</p> <p>19 the contact person?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Ma'am, what is this document?</p> <p>22 MS. CITERA: Objection to the form.</p> | <p style="text-align: right;">Page 173</p> <p>1 So, for instance, a patient who was</p> <p>2 receiving TPN would -- for, say, a seven-day</p> <p>3 supply of TPN would get seven bags of compounded</p> <p>4 TPN solution. There might be IV fat emulsions</p> <p>5 sent to them. There would be an IV set that they</p> <p>6 would receive. There would be dressing supplies.</p> <p>7 There would be heparin and saline for flushing,</p> <p>8 needles and syringes for doing those flushes, and</p> <p>9 so on and so forth. And each one of those items</p> <p>10 had a billable charge for that item.</p> <p>11 And when you totaled it up and you</p> <p>12 divided it by however many bags of TPN that was</p> <p>13 being sent to that patient, that would be a daily</p> <p>14 charge. And that was the starting point for the</p> <p>15 negotiation because for that patient, that could</p> <p>16 come up to whatever that -- whatever that value</p> <p>17 was. And then I had the ability to negotiate</p> <p>18 that price by half, if necessary, with an</p> <p>19 insurance company.</p> <p>20 Q. Okay. And who would set the billable</p> <p>21 charge?</p> <p>22 A. The customers could set up those</p> |

44 (Pages 170 to 173)

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| <p style="text-align: right;">Page 174</p> <p>1 billable charges. They -- based on all the 2 products that they knew they were going -- that 3 they were going to be using for those patients, 4 they had -- they had the ability to set up those 5 billable charges. 6 Q. Did Abbott ever do that for them? 7 A. There may have been situations where 8 one of those customers might have said they would 9 like us to do it on their behalf, in which case 10 we would probably make some determinations and 11 then have them review it; and if they were 12 comfortable with that, we would then -- those 13 would be the billable charges for that customer. 14 Q. Okay. For charges that had product 15 components like, for example, an antibiotic, 16 would the billable charge be based in part upon 17 the AWP for that product? 18 MS. CITERA: Objection to the form. 19 BY THE WITNESS: 20 A. When I was first in Home Infusion 21 Services, all of those prices had been created; 22 and I don't know how they were originally</p> | <p style="text-align: right;">Page 176</p> <p>1 antibiotic patient, there were very few 2 antibiotics that Abbott had; so they were really 3 purchasing the majority of their antibiotics from 4 wherever they were able to source those products 5 from. So the products that they got from Abbott 6 on consignment were -- and then, again, that was 7 consignment and it was factored into the value of 8 how the reimbursement was shared. And I don't 9 know how that formula was done. 10 Q. Well, why use AWP? Why not use -- for 11 the Abbott products, why not use, for example, 12 the contract prices for the GPOs? 13 MS. CITERA: Objection to form. 14 BY THE WITNESS: 15 A. Well, again, the majority of the 16 antibiotics were not Abbott products. 17 Q. Okay. I'm talking about for the Abbott 18 products. 19 A. I know. And so we were trying to come 20 up with a formula that would work across the 21 board and that would make the pricing consistent 22 for each bag of antibiotics. And we weren't</p> |
| <p style="text-align: right;">Page 175</p> <p>1 created, so I don't know what the original 2 formula was for how the antibiotics -- 3 Q. Were -- 4 A. Then in 1994, late 1994/1995 time 5 frame, there were a lot of new antibiotics that 6 were coming on the market that were being used in 7 a home setting. And we determined that we needed 8 to come up with some kind of a formula for 9 determining what a bag of that compounded drug 10 would be. And so what we did is we came up with 11 a value that we said was -- included the pharmacy 12 labor and overhead for compounding that bag of 13 antibiotic, and then we added in a drug cost. 14 And I believe under most circumstances, we used 15 the AWP for the drug as that value. 16 Q. Is that what your -- is that what the 17 consignment customer paid for that product, the 18 AWP price? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. No. What they were paying for was -- 22 If it was on consignment -- again, for an</p> | <p style="text-align: right;">Page 177</p> <p>1 looking at that pricing based on the consignment. 2 We were looking at trying to come up with a 3 pricing formula that was consistent for all 4 products. 5 And then the customers -- Again, as I 6 said, the customers had the choice of saying 7 "Yes, this makes sense to me" or "No, I would 8 rather do something else"; and in that case, they 9 had the option to change what was being done and 10 how they wanted it done. 11 Q. Okay. When you say "we came up with 12 this," who is "we"? 13 A. I worked with my manager at the time, 14 and I can't remember whether it was Dave Brincks 15 or Kathy Riddle, to come up with a formula. And 16 then we went back and repriced all the 17 antibiotics, all of the pain management drugs, 18 the morphines, all of the chemotherapy drugs, or 19 any other -- any other product that would have 20 been compounded in a bag and then infused through 21 an IV for that type of a -- 22 Q. Under these consignment arrangements,</p> |

45 (Pages 174 to 177)

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| <p style="text-align: right;">Page 178</p> <p>1 would Abbott also procure the non-Abbott products</p> <p>2 and provide them to the consignment partner?</p> <p>3 MS. CITERA: Objection to the form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. No.</p> <p>6 Q. So the consignment partner would have</p> <p>7 an independent responsibility for securing those</p> <p>8 products?</p> <p>9 A. Correct.</p> <p>10 Q. Are you aware of any instance where</p> <p>11 Abbott participated in a GPO and was able to</p> <p>12 secure other products by -- other non-Abbott</p> <p>13 products for its consignment partners?</p> <p>14 MS. CITERA: Objection to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I am not aware of that ever being a</p> <p>17 circumstance for Home Infusion.</p> <p>18 Q. Okay. For the period that you were</p> <p>19 there?</p> <p>20 A. For the period that I was there.</p> <p>21 Q. Okay. So it could have occurred after;</p> <p>22 you just don't know about it?</p> | <p style="text-align: right;">Page 180</p> <p>1 - you know, whether they felt that it was</p> <p>2 appropriate for them to take those patients on in</p> <p>3 a home setting. So, I mean, I can't -- I -- at</p> <p>4 this point, it's so many years later, I can't</p> <p>5 recall -- you know, when that could have happened</p> <p>6 or why, but ...</p> <p>7 Q. Well, is it fair to say -- is it fair</p> <p>8 to say that you could only do these types of</p> <p>9 discounts for larger -- for larger institutions?</p> <p>10 MS. CITERA: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I think the discounts were based on</p> <p>13 what that -- that customer said that they were</p> <p>14 comfortable with for their patient population.</p> <p>15 Q. Okay. Did Abbott have a say in the</p> <p>16 level of discount that could be agreed to?</p> <p>17 MS. CITERA: Objection to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. If I recall the way we handled this</p> <p>20 correctly, we pretty much left that to the</p> <p>21 discretion of the institution.</p> <p>22 Q. Okay.</p> |
| <p style="text-align: right;">Page 179</p> <p>1 MS. CITERA: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. Yes, it could have occurred afterwards</p> <p>4 and I didn't know about it.</p> <p>5 Q. Well, let me ask you, if you're taking</p> <p>6 discounts of up to 50 percent, is somebody losing</p> <p>7 money there? That seems a pretty steep discount,</p> <p>8 doesn't it?</p> <p>9 MS. CITERA: Objection to the form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Yes, it is. And I would -- And I would</p> <p>12 guess that it was only in very extreme</p> <p>13 circumstances that the negotiations ever went to</p> <p>14 that point.</p> <p>15 Q. Well, what circumstances would permit</p> <p>16 the negotiations to get to that point?</p> <p>17 MS. CITERA: Objection to the form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. This would probably be a situation</p> <p>20 where the institution -- And, again, the</p> <p>21 institution had the final say on whether they</p> <p>22 wanted to take patients or not and whether they -</p> | <p style="text-align: right;">Page 181</p> <p>1 MS. ST. PETER-GRIFFITH: If we could</p> <p>2 move on to No. 11, Jarrett.</p> <p>3 MR. ANDERSON: I am now handing the</p> <p>4 witness what's been marked as Leone Deposition</p> <p>5 Exhibit 4.</p> <p>6 (Deposition Exhibit Leone 004</p> <p>7 marked as requested.)</p> <p>8 BY MS. ST. PETER-GRIFFITH:</p> <p>9 Q. Ma'am, if you could take a few minutes</p> <p>10 and look at this document.</p> <p>11 A. Okay.</p> <p>12 Q. Have you had a chance to look at it?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recognize this document?</p> <p>15 A. Again, no.</p> <p>16 Q. Okay. On the first page -- First of</p> <p>17 all, I hope we're looking at the same document.</p> <p>18 It's a fax cover sheet?</p> <p>19 A. Yes.</p> <p>20 Q. 6/17/94?</p> <p>21 A. Correct.</p> <p>22 Q. Does this appear to be a fax from you</p> |

46 (Pages 178 to 181)

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January 17, 2008

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| <p style="text-align: right;">Page 182</p> <p>1 to someone named Susan Winter?</p> <p>2 A. Yes, it is.</p> <p>3 Q. Who is Ms. Winter?</p> <p>4 A. She was one of the Home Infusion sales</p> <p>5 representatives back in the mid '90s.</p> <p>6 Q. Okay. And if you could turn to the</p> <p>7 second page of this document, who created this</p> <p>8 document, do you know?</p> <p>9 MS. CITERA: Objection to the form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. This looks like something that I</p> <p>12 probably created.</p> <p>13 Q. Okay. And what is this document?</p> <p>14 MS. CITERA: Objection to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Based on the fax cover sheet, it was</p> <p>17 something that Susan requested from me for</p> <p>18 Presbyterian. They probably wanted to see what</p> <p>19 their -- They probably -- These were probably --</p> <p>20 And, again, I'm -- I'm making a guess here for</p> <p>21 why these were the products on this -- on this</p> <p>22 worksheet. But I'm going to guess these were the</p> | <p style="text-align: right;">Page 184</p> <p>1 they were allowing us to negotiate on their</p> <p>2 behalf with the third-party payors, up to -- up</p> <p>3 to a 20 percent discount for these -- for these</p> <p>4 drugs.</p> <p>5 Q. Okay. And is there anything else that</p> <p>6 you can recall about this document or explain</p> <p>7 about this document?</p> <p>8 A. No.</p> <p>9 Q. I know we're taxing your memory a</p> <p>10 little bit.</p> <p>11 A. You are.</p> <p>12 Q. Okay. Well, we can move on to the next</p> <p>13 document which we're going to spend a little time</p> <p>14 with.</p> <p>15 MS. ST. PETER-GRIFFITH: Jarrett, it's</p> <p>16 No. 12 -- I'm sorry. That's the following</p> <p>17 document. If we could go to No. 12, and it's</p> <p>18 going to be marked as Exhibit 5. Hello?</p> <p>19 MR. ANDERSON: Yeah, I'm marking 5 now</p> <p>20 and presenting that to the witness.</p> <p>21 MS. ST. PETER-GRIFFITH: Okay. Thank</p> <p>22 you. I'm sorry. I thought we cut off there a</p> |
| <p style="text-align: right;">Page 183</p> <p>1 high-running antibiotic products that they used -</p> <p>2 - Presbyterian Home Care used in their home</p> <p>3 infusion program, and they were -- it was -- they</p> <p>4 wanted to see what the usual and customary was</p> <p>5 for each one of these, for a gravity infusion for</p> <p>6 each one of these prescriptions based on the</p> <p>7 dosage. And then there was a discount rate and</p> <p>8 then a low -- and I don't know what that lowest</p> <p>9 rate patient pay is.</p> <p>10 Q. Oh, you anticipated my next question.</p> <p>11 A. Yeah, I have no idea what that was.</p> <p>12 Q. Okay. What is the discount percentage?</p> <p>13 A. The discount there is a 20 percent</p> <p>14 discount.</p> <p>15 Q. Okay. And is that the same discount</p> <p>16 that we were talking about in the prior -- with</p> <p>17 the prior exhibit, that's the discount range that</p> <p>18 could be negotiated?</p> <p>19 A. I'm going to guess --</p> <p>20 MS. CITERA: Objection, form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. My guess would be that this is what</p> | <p style="text-align: right;">Page 185</p> <p>1 little bit.</p> <p>2 MS. CITERA: He's slacking off.</p> <p>3 (Deposition Exhibit Leone 005</p> <p>4 marked as requested.)</p> <p>5 BY THE WITNESS:</p> <p>6 A. Okay.</p> <p>7 Q. Ma'am, have you had a chance to look at</p> <p>8 this document?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recognize this document?</p> <p>11 A. No.</p> <p>12 Q. It appears to be an April 24, 1995</p> <p>13 interoffice correspondence from you to Sharon</p> <p>14 Clarey; do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Who is Ms. Clarey?</p> <p>17 A. I believe that at the time that this</p> <p>18 was done, Sharon was one of our reimbursement</p> <p>19 specialists, and Cedars -- she was responsible</p> <p>20 for doing -- providing the reimbursement services</p> <p>21 for Cedars-Sinai Medical Center in California.</p> <p>22 Q. Okay. And can you explain what this</p> |

47 (Pages 182 to 185)

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|---|--|
| <p style="text-align: right;">Page 186</p> <p>1 document is?</p> <p>2 MS. CITERA: Objection to the form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Cedars -- Cedars -- compounding for</p> <p>5 Cedars was done out of our Los Angeles pharmacy.</p> <p>6 They did not have their own pharmacy to do</p> <p>7 compounding. It was being done in our -- we had</p> <p>8 a home infusion pharmacy in California, and the</p> <p>9 compounding for Cedars was being done there.</p> <p>10 As I read this, they were going to</p> <p>11 start using this Baxa syringe infuser for some of</p> <p>12 their patients. What I'm telling her is that</p> <p>13 she's going to start seeing that on -- on the</p> <p>14 billable charges for Cedars patients, and this is</p> <p>15 the price that we're going to be charging them,</p> <p>16 which is going to be \$8 a day for the rental of</p> <p>17 that equipment. And in addition our Los Angeles</p> <p>18 pharmacy is renting those pumps from Baxa.</p> <p>19 Q. Okay. So you're going to rent them</p> <p>20 from Baxa?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And then it says in the second</p> | <p style="text-align: right;">Page 188</p> <p>1 was a -- if there was a syringe infuser used for</p> <p>2 a Cedars patient, we were going to bill Cedars \$5</p> <p>3 for it. But the rental rate that was going to be</p> <p>4 put on the patient bills was \$8 a day.</p> <p>5 Q. Why is it the rate on the patient bills</p> <p>6 was \$8 a day but you were only billing Cedars \$5</p> <p>7 a day?</p> <p>8 MS. CITERA: Object to the form</p> <p>9 BY THE WITNESS:</p> <p>10 A. Well, again, you know, you're in</p> <p>11 business to make money and that would be -- that</p> <p>12 would be what -- what Abbott would hope to have</p> <p>13 made on that pump, on that syringe pump for --</p> <p>14 based on the patient days.</p> <p>15 Q. Okay. Who gets the -- who collects the</p> <p>16 \$8?</p> <p>17 A. Abbott.</p> <p>18 Q. And what does it pay to Cedars?</p> <p>19 MS. CITERA: Objection to the form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. It's going to pay Cedars \$5. No, wait</p> <p>22 a minute. This is backwards.</p> |
| <p style="text-align: right;">Page 187</p> <p>1 paragraph, "On the Cedars fee-for-service</p> <p>2 contract, we will bill Cedars \$5 for day for</p> <p>3 patients using this device." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What does that mean?</p> <p>6 MS. CITERA: Objection to the form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Cedars' agreement was not one of those</p> <p>9 -- was not a revenue-sharing agreement like the</p> <p>10 one we talked about for Licking. For Cedars,</p> <p>11 there was a flat -- there was a flat fee that we</p> <p>12 charged them on a per-patient basis. And then in</p> <p>13 the case of Cedars, I believe we were billing in</p> <p>14 Abbott's name and not in Cedars' name.</p> <p>15 Q. Why is that?</p> <p>16 A. Well, because -- I don't remember all</p> <p>17 the particulars on it. But I believe that the</p> <p>18 relationship that we had with Cedars preceded</p> <p>19 doing the revenue-share-type programs that we</p> <p>20 were looking at for Licking. And so they were</p> <p>21 invoiced on a per-patient basis.</p> <p>22 And so what we were saying was if there</p> | <p style="text-align: right;">Page 189</p> <p>1 Q. That's why I got a little confused</p> <p>2 there.</p> <p>3 A. It's backwards. I'm sorry. On the</p> <p>4 fee-for-service, they're paying us based on the</p> <p>5 rates that we've identified.</p> <p>6 Q. Okay.</p> <p>7 A. See, now I can't remember whether we</p> <p>8 billed in Abbott's name or whether we billed in</p> <p>9 Cedars' name. I think -- I think we billed in</p> <p>10 Cedars' name for private insurance and Medicare</p> <p>11 but for Medicaid, because it was being compounded</p> <p>12 in the -- in an Abbott pharmacy, we billed</p> <p>13 Medicaid in Abbott's name.</p> <p>14 Q. Well, who would you represent to</p> <p>15 Medicaid was the provider?</p> <p>16 A. Right. And so that's what we did.</p> <p>17 Q. Well, no. Who would be the provider</p> <p>18 you were billing to Medicaid?</p> <p>19 MS. CITERA: Objection to form.</p> <p>20 BY MS. ST. PETER-GRIFFITH:</p> <p>21 Q. Would it be Abbott, or would it be</p> <p>22 Cedars?</p> |

48 (Pages 186 to 189)

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| <p style="text-align: right;">Page 190</p> <p>1 A. It would be Abbott for the Medicaid</p> <p>2 patients.</p> <p>3 Q. Do you know whether you could use your</p> <p>4 Abbott provider number to do that?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. We could use the Abbott provider number</p> <p>8 to bill in Abbott's name.</p> <p>9 Q. Okay.</p> <p>10 A. And that's what we did.</p> <p>11 Q. Okay. Even though this was a Cedars</p> <p>12 client?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Cedars provided us with the referral</p> <p>16 for that patient, and we -- and we took care of</p> <p>17 that patient, if it was Medicaid, in Abbott's</p> <p>18 name.</p> <p>19 Q. And what would -- what would Cedars</p> <p>20 receive as compensation for the referral?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> | <p style="text-align: right;">Page 192</p> <p>1 from you; do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Do you have any doubts that you drafted</p> <p>4 this memorandum?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. No, I do not have any doubts I drafted</p> <p>8 this.</p> <p>9 Q. What is CM Healthcare Resources?</p> <p>10 A. It's Children's Memorial Healthcare.</p> <p>11 It was Children's Memorial Hospital in Chicago.</p> <p>12 They were one of the home infusion customers.</p> <p>13 Q. Okay. And do you recall this meeting</p> <p>14 that you had with them?</p> <p>15 MS. CITERA: Objection, form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I don't recall it, no, but it appears</p> <p>18 to have happened.</p> <p>19 Q. Okay. And what from the context of the</p> <p>20 minutes of the meeting reflected in this document</p> <p>21 that you drafted do you recall about that</p> <p>22 meeting?</p> |
| <p style="text-align: right;">Page 191</p> <p>1 A. I don't remember; and I haven't seen</p> <p>2 the Cedars contract, so I can't -- I can't say.</p> <p>3 Q. But would there be -- would there be</p> <p>4 some kind of remuneration for the referral?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I don't know.</p> <p>8 Q. If we could go on to the next exhibit.</p> <p>9 And, ma'am, I am going to ask you to look at both</p> <p>10 pages of this carefully because we're going to</p> <p>11 spend some time on this one.</p> <p>12 A. Okay.</p> <p>13 MR. ANDERSON: I'm handing the witness</p> <p>14 what's been marked as Exhibit 6.</p> <p>15 (Deposition Exhibit Leone 006</p> <p>16 marked as requested.)</p> <p>17 BY THE WITNESS:</p> <p>18 A. Okay.</p> <p>19 Q. Okay. Ms. Leone, do you recognize this</p> <p>20 document?</p> <p>21 A. No.</p> <p>22 Q. It appears to be an interoffice memo</p> | <p style="text-align: right;">Page 193</p> <p>1 MS. CITERA: Objection to the form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. What this pertains to is when we first</p> <p>4 initiated our relationship with Children's</p> <p>5 Memorial in Chicago, everything was billed in</p> <p>6 Abbott's name. And there was a relationship with</p> <p>7 Children's where they received part of the --</p> <p>8 what was collected from the insurance companies</p> <p>9 and Medicaid. I don't recall how that -- how</p> <p>10 that -- how that was set up. But initially</p> <p>11 everything was done in Abbott's name.</p> <p>12 Then in June of '95, we agreed that it</p> <p>13 was going to change to Children's name instead of</p> <p>14 Abbott's name except for the Medicaid patients</p> <p>15 because, again, it was being compounded in the</p> <p>16 Abbott pharmacy with -- the products that those</p> <p>17 Medicaid patients were receiving, it was going to</p> <p>18 be compounded in the Abbott pharmacy; so it was</p> <p>19 the Abbott provider number that was going to be</p> <p>20 used.</p> <p>21 Q. Okay. You said that CM Healthcare</p> <p>22 would receive a part of what was collected from</p> |

49 (Pages 190 to 193)

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| <p style="text-align: right;">Page 194</p> <p>1 insurers and Medicaid. Is that also true for</p> <p>2 Medicare as well?</p> <p>3 MS. CITERA: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Children's Memorial had no Medicare</p> <p>6 patients because they were all kids.</p> <p>7 Q. Okay. Can you explain Item 7, then?</p> <p>8 MS. CITERA: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I believe that part of the reason that</p> <p>11 they changed -- that it was changing was that</p> <p>12 they wanted to expand their services to be -- to</p> <p>13 cover more than just children. So that's why the</p> <p>14 name was CM Healthcare Resources when previously</p> <p>15 it had been Children's Memorial. And they</p> <p>16 changed it to CM Healthcare Resources so that it</p> <p>17 wouldn't be just focused on kids, and they were</p> <p>18 then going to start expanding their home infusion</p> <p>19 services and try to expand their patient</p> <p>20 population and not just be focused on a pediatric</p> <p>21 population.</p> <p>22 Q. Okay. Did Abbott ever use its provider</p> | <p style="text-align: right;">Page 196</p> <p>1 BY THE WITNESS:</p> <p>2 A. Again, I was not involved in the</p> <p>3 renegotiation of the contract with Children's</p> <p>4 where all of this changed. But as I said before,</p> <p>5 when we -- when we did contracts -- we worked</p> <p>6 with our legal counsel when we did these</p> <p>7 contracts. And this was -- All I was -- All I</p> <p>8 was working on at this point was the</p> <p>9 implementation of the change.</p> <p>10 Q. Did you ask any questions about whether</p> <p>11 or not this was -- whether or not Abbott's</p> <p>12 provider number could be used in such a way?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Since the billings were being done in</p> <p>16 Abbott's name using Abbott's provider number to</p> <p>17 Illinois Medicaid, and based on -- based on the</p> <p>18 renegotiations and what we did -- Well, to answer</p> <p>19 your question, I did not have any discussions</p> <p>20 with anyone.</p> <p>21 Q. Okay. You relied upon the people who</p> <p>22 negotiated the contract to verify that -- I</p> |
| <p style="text-align: right;">Page 195</p> <p>1 number to bill Medicare on behalf of CM</p> <p>2 Healthcare Resources, to your recollection?</p> <p>3 A. To my recollection, that never</p> <p>4 happened.</p> <p>5 Q. Okay. But Abbott did use its provider</p> <p>6 number to bill Medicaid?</p> <p>7 A. But they billed in Abbott's name, not</p> <p>8 in CM Healthcare Resources' name. So those bills</p> <p>9 were in Abbott's name. Abbott submitted the</p> <p>10 claims as Abbott for those patients.</p> <p>11 Q. Okay. And then paid a fee to</p> <p>12 Children's Memorial?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. If I recall the contract correctly,</p> <p>16 there was -- there was something that went back</p> <p>17 to Children's, although I don't remember what it</p> <p>18 was or how the contract was structured.</p> <p>19 Q. Prior to approving this arrangement,</p> <p>20 did you check with anyone concerning the legality</p> <p>21 of Abbott's ability to do that?</p> <p>22 MS. CITERA: Objection to form.</p> | <p style="text-align: right;">Page 197</p> <p>1 apologize for the horn out there -- to verify</p> <p>2 that everything was kosher under this</p> <p>3 arrangement?</p> <p>4 MS. CITERA: Objection to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Yes. I relied that during that</p> <p>7 negotiation process, our -- the people who were</p> <p>8 negotiating the contracts were working with our</p> <p>9 legal counsel.</p> <p>10 Q. Do you recall who negotiated the</p> <p>11 contract?</p> <p>12 A. No, I do not.</p> <p>13 Q. Who was -- Who would have been some of</p> <p>14 the folks who may have been negotiating the</p> <p>15 contract at that point in time? Who was in the</p> <p>16 Contract Marketing component of Home Infusion at</p> <p>17 that time?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. It would have been either Dave Brincks</p> <p>21 or Kathy Riddle as my manager, and I can't</p> <p>22 remember when Dave left and Kathy came in. And</p> |

50 (Pages 194 to 197)

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| Page 198 | Page 200 |
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| <p>1 Mike Sellers, who was the general manager of Home 2 Infusion Services, would also have been included 3 in those conversations. 4 Q. Could any contract like this have been 5 approved without Mike Sellers signing off on it? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. To the best of my knowledge, Mike would 9 have probably been aware of or been involved in 10 the discussions. 11 Q. Do you recall how many other 12 arrangements Home Infusion had that were like 13 this? 14 MS. CITERA: Objection to the form. 15 BY THE WITNESS: 16 A. No, I do not. 17 Q. Do you recall anything else about this 18 particular memorandum or this meeting? 19 A. No, I do not. 20 Q. Do you recall anything else concerning 21 the contractual relationship with Children's 22 Memorial?</p> | <p>1 appears to be a fax cover sheet that says, "Lynn 2 Leone, from Lynn Leone, managed care specialist." 3 Do you see that? 4 A. Yes. 5 Q. Do you have any doubt you faxed this 6 document to Ms. Christine Hayne? 7 MS. CITERA: Objection to form. 8 BY THE WITNESS: 9 A. No, I do not. 10 Q. Who's Christine Hayne? 11 A. I don't know. 12 Q. Ma'am, if you could turn to the third 13 to last page of this document which has at the 14 bottom Abbott DOJ 317633. 15 A. Yes. 16 Q. Do you see where it says, "Infusion 17 Therapy Services"? 18 A. Uh-huh. 19 Q. The third bullet point reads, "Average 20 Wholesale Price (AWP) of medications will be 21 obtained from sources which are mutually agreed 22 upon by all parties." Do you see that?</p> |
| Page 199 | Page 201 |
| <p>1 A. No, I don't. 2 Q. Okay. Let's move on to the next 3 document. 4 MR. ANDERSON: I'm now marking Exhibit 5 7 and providing that to Ms. Leone. 6 (Deposition Exhibit Leone 007 7 marked as requested.) 8 BY MS. ST. PETER-GRIFFITH: 9 Q. Ma'am, I'm not going to ask you to go 10 through chapters and verse of this document. I - 11 - My focus is actually going to be on the third- 12 to-the-last page, but you're welcome to look 13 through the document and take as much time as you 14 need with it. 15 MS. ST. PETER-GRIFFITH: I'm sorry, 16 Jarrett. What exhibit was this? 17 MR. ANDERSON: 7. 18 BY THE WITNESS: 19 A. Okay. 20 Q. Ma'am, do you recognize this document? 21 A. No. 22 Q. Okay. On the front page it says -- it</p> | <p>1 A. Yes. 2 Q. Do you recall what that means? 3 MS. CITERA: Objection to the form. 4 BY THE WITNESS: 5 A. No, I do not recall what that means. 6 Q. Do you recall whether this was a 7 standard contractual provision in Abbott's home 8 infusion contracts? 9 MS. CITERA: Objection to the form. 10 BY THE WITNESS: 11 A. I don't recall that. 12 Q. Do you know what the mutually agreed 13 upon -- Sorry. 14 Do you know what the mutually agreed 15 upon sources were for ascertaining AWP? 16 MS. CITERA: Objection to form. 17 BY THE WITNESS: 18 A. I would expect that we would either be 19 talking about Medi-Span or Red Book. 20 Q. Why do you say that? 21 A. Because those were the two main sources 22 for us and for our home infusion customers to</p> |

51 (Pages 198 to 201)

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January 17, 2008

Chicago, IL

| Page 202 | Page 204 |
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| <p>1 obtain the average wholesale price for the</p> <p>2 infusion therapy drugs.</p> <p>3 Q. Okay. Would Abbott's Home Infusion</p> <p>4 employees have access to the Red Book?</p> <p>5 MS. CITERA: Object to the form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I believe that there was one copy,</p> <p>8 maybe two copies of Red Book in some place in the</p> <p>9 area where Home Infusion Services was, was</p> <p>10 located.</p> <p>11 Q. Do you know if AWP information or</p> <p>12 information from Red Book or Medi-Span was</p> <p>13 contained on the CHIP system?</p> <p>14 A. I do not recall that we had it in the</p> <p>15 CHIP system; but when we did the deposition last</p> <p>16 summer, I believe it came up that it was in the</p> <p>17 CHIP system. But I don't remember that it was</p> <p>18 there.</p> <p>19 Q. How would the Home Infusion employees</p> <p>20 use the Red Book?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> | <p>1 A. -- for their third party --</p> <p>2 Q. Okay. Were they a large client of Home</p> <p>3 Infusion?</p> <p>4 A. I don't remember their size in relation</p> <p>5 to other customers.</p> <p>6 Q. Okay. Before we move on to the next</p> <p>7 document, let me ask, is now a good time to take</p> <p>8 a break?</p> <p>9 MS. CITERA: Sure.</p> <p>10 THE VIDEOGRAPHER: We have 20 minutes</p> <p>11 left on the tape.</p> <p>12 MS. CITERA: We have 20 minutes left on</p> <p>13 the tape, but we're fine to take a break. It's</p> <p>14 up to you.</p> <p>15 MS. ST. PETER-GRIFFITH: Why don't we</p> <p>16 take a break, if you don't mind.</p> <p>17 THE VIDEOGRAPHER: We are off the</p> <p>18 record at 1:57 p.m.</p> <p>19 (A short break was had.)</p> <p>20 THE VIDEOGRAPHER: We are back on the</p> <p>21 record at 2:13 p.m.</p> <p>22 MS. ST. PETER-GRIFFITH: Jarrett, can</p> |
| Page 203 | Page 205 |
| <p>1 A. They would use it when -- when we had</p> <p>2 situations where we had negotiated a price -- a</p> <p>3 billing charge on behalf of one of the customers</p> <p>4 for an infusion therapy where it was per diem</p> <p>5 plus the AWP, we would then enter that, that</p> <p>6 information in the CHIP system for that patient</p> <p>7 so that when the invoice -- the bill came out of</p> <p>8 the CHIP system to be submitted to the insurance</p> <p>9 company, it would come out with that negotiated</p> <p>10 price on it. And that's why the AWP's would be</p> <p>11 there. And, again, it's been almost 20 years</p> <p>12 since I used CHIP, so I can't exactly remember</p> <p>13 how all that information got entered in there.</p> <p>14 But that was the intent.</p> <p>15 Q. Okay. Do you recall Presbyterian</p> <p>16 Hospital or Hospice at Charlotte as a client?</p> <p>17 A. Yes.</p> <p>18 Q. Were they a client that you worked</p> <p>19 with?</p> <p>20 A. I did -- I did their negotiations for</p> <p>21 their insurance payments --</p> <p>22 Q. Okay.</p> | <p>1 you hand off File No. 16, please?</p> <p>2 MR. ANDERSON: Yes.</p> <p>3 BY MS. ST. PETER-GRIFFITH:</p> <p>4 Q. While that's being -- Oh, I'm sorry.</p> <p>5 She can't mark and take transcription at the same</p> <p>6 time.</p> <p>7 MR. ANDERSON: Okay. I'm now handing</p> <p>8 the witness what's been marked as Leone</p> <p>9 Deposition Exhibit 8.</p> <p>10 (Deposition Exhibit Leone 008</p> <p>11 marked as requested.)</p> <p>12 BY MS. ST. PETER-GRIFFITH:</p> <p>13 Q. Ms. Leone, before we move to that</p> <p>14 document, do you recall any other Home Infusion</p> <p>15 contracts where the arrangements were similar to</p> <p>16 the one with Children's Memorial?</p> <p>17 MS. CITERA: Objection to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Where the changes -- where the program</p> <p>20 was or was not similar to Children's Memorial?</p> <p>21 Q. Where it was similar to Children's</p> <p>22 Memorial, where Abbott would use its own provider</p> |

52 (Pages 202 to 205)

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January 17, 2008

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| <p style="text-align: right;">Page 206</p> <p>1 number at times to bill Medicaid or Medicare. 2 MS. CITERA: Objection to the form. 3 BY THE WITNESS: 4 A. I cannot recall any others at this 5 time. 6 Q. Do you recall whether there were any 7 others? 8 MS. CITERA: Object to the form. 9 BY THE WITNESS: 10 A. If there were programs like that, those 11 would have been prior to -- prior to doing these 12 types of programs that we've talked about when -- 13 and it was when we were doing everything as 14 Abbott. 15 Q. Okay. So it would have been prior to 16 the initiation of these partnerships, the 17 consignment partnerships then? 18 A. Yes. 19 Q. Why did Abbott shift to these 20 consignment partnership arrangements? 21 MS. CITERA: Objection. 22 BY MS. ST. PETER-GRIFFITH:</p> | <p style="text-align: right;">Page 208</p> <p>1 Q. Okay. Is it fair to say that then from 2 '85 to '91, the billings that you were doing were 3 largely under Abbott's provider number? 4 MS. CITERA: Objection to the form. 5 BY THE WITNESS: 6 A. I don't -- I don't remember when it 7 changed. But in the early period of time when I 8 was in reimbursement, we were billing -- 9 everything was being billed as Abbott under 10 Abbott's provider numbers. And I just don't know 11 when the shift took place. 12 Q. But were there comparable client 13 relationships where there would be providers of 14 Home Infusion Services who Abbott would pay a 15 referral fee to or share in the percentage of 16 collections with? 17 MS. CITERA: Objection, form. 18 BY THE WITNESS: 19 A. I don't recall. 20 Q. Okay. Do you recall what Abbott's 21 provider number was? 22 A. No.</p> |
| <p style="text-align: right;">Page 207</p> <p>1 Q. Do you know? 2 MS. CITERA: Objection, to form. 3 BY THE WITNESS: 4 A. No, I do not know. 5 Q. Did it happen all of a sudden or 6 gradually? 7 MS. CITERA: Objection to form. 8 BY THE WITNESS: 9 A. I don't remember the exact genesis of 10 the change in direction for the program. 11 Q. Okay. Do you recall how many customers 12 Abbott had where it did the billing under 13 Abbott's provider number prior to the initiation 14 of these consignment partnerships? 15 MS. CITERA: Object to the form. 16 BY THE WITNESS: 17 A. No, I do not. 18 Q. Were you in the department at that 19 time? 20 A. I was in Home Infusion Services from -- 21 beginning in 1985; so yes, I was when that 22 happened.</p> | <p style="text-align: right;">Page 209</p> <p>1 Q. Okay. Just thought I'd ask. 2 MR. ANDERSON: I do remember my phone 3 number from 20 years ago. 4 BY MS. ST. PETER-GRIFFITH: 5 Q. Could you turn to Exhibit 8, please? 6 A. I'm sorry. What was the question? 7 MS. CITERA: 8. 8 BY MS. ST. PETER-GRIFFITH: 9 Q. Could we turn to Exhibit 8. And, 10 again, ma'am, I understand this is a long 11 document. I'm not going to ask you detailed 12 questions about the content, but I do want you to 13 flip through it to identify your familiarity with 14 the document. 15 A. Okay. 16 Q. Okay. Ma'am, do you recognize this 17 document? 18 A. Yes, I do. 19 Q. What is this document? 20 A. It was an agreement with PBI, 21 Pharmaceutical Buyers, Inc., for Abbott to 22 provide compounding services for PBI members.</p> |

53 (Pages 206 to 209)

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January 17, 2008

Chicago, IL

| Page 210 | Page 212 |
|---|---|
| <p>1 And PBI was an alternate site group purchasing 2 organization. 3 Q. Okay. Was this contract executed, to 4 your knowledge? 5 A. Yes, it -- To my knowledge, it was 6 executed. 7 Q. Did Abbott's pharmacies provide the 8 services contracted for? 9 MS. CITERA: Objection, form. 10 BY THE WITNESS: 11 A. I do not recall that any of PBI's 12 members ever took advantage of this compounding 13 service, this compounding service that we were 14 going to offer to them. 15 Q. Okay. Do you recall how long the 16 contract was in effect for? 17 A. Well, this was implemented in June of 18 '96; and I left Home Infusion Services in 19 December, so I don't know what happened after I 20 left Home Infusion. 21 Q. Okay. Was this a consignment-type 22 contract or a fee-for-service contract?</p> | <p>1 A. I actually wrote this agreement, 2 working with our legal counsel. 3 Q. And what was the genesis of this 4 agreement? Why did it come about? 5 MS. CITERA: Objection to form. And I 6 also just counsel you not to reveal any 7 discussions with counsel. 8 BY THE WITNESS: 9 A. PBI came to us and asked if we could 10 put a program together for members of PBI who 11 didn't have compounding capabilities for Abbott 12 to use its compounding pharmacies to mix the 13 drugs on those members' behalf. 14 Q. Okay. And who would be -- and then 15 what would happen to that mixed product once that 16 service was provided by Abbott's -- by Abbott's 17 pharmacies? 18 A. As I look at the page with the page 19 number 5 on it -- 20 Q. Yes. 21 A. -- it said we would be delivering, but 22 I don't recall whether we were delivering to the</p> |
| Page 211 | Page 213 |
| <p>1 A. It was a fee-for-service-type contract. 2 Q. Okay. And if you could look to the 3 last page of this exhibit, hopefully it says at 4 the top, looking at the same document, Abbott 5 Home Infusion Services, Pharmaceutical Buyers, 6 Inc.; do you see that? 7 A. Yes. 8 Q. Okay. Can you tell me where it says 9 "Drug Price," do you see that? 10 A. Yes. 11 Q. What -- what price was charged? 12 MS. CITERA: Objection, form. 13 BY THE WITNESS: 14 A. I don't -- 15 Q. Excuse me. What price would have been 16 charged if any PBI member had taken advantage of 17 this contract? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. I don't know. 21 Q. Okay. What was your involvement with 22 this particular agreement?</p> | <p>1 patient or whether we were delivering to the 2 member. 3 Q. Okay. Do you recall who would have 4 billed either the insurer or Medicaid or 5 Medicare? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. No, I do not. 9 Q. Is it possible that Abbott Pharmacy may 10 have billed Medicaid or Medicare or the insurer? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. I don't know. 14 Q. Okay. Is there anything else that you 15 can remember about this particular contract? 16 A. No. 17 Q. Who did you work with in legal -- I 18 don't want to know what you discussed with them. 19 But who did you work with in legal to put this 20 contract together? 21 A. I don't remember. 22 Q. Do you remember anyone else that you</p> |

54 (Pages 210 to 213)

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January 17, 2008

Chicago, IL

| Page 214 | Page 216 |
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| <p>1 consulted in the Hospital Products Division</p> <p>2 concerning this particular contract?</p> <p>3 A. I worked with Mr. Sellers on this</p> <p>4 contract.</p> <p>5 Q. Okay. What was his involvement?</p> <p>6 A. This was a different kind of a contract</p> <p>7 than we had written -- than the other types of</p> <p>8 arrangements, and so I worked with Mike pretty</p> <p>9 closely to determine what we wanted to do here</p> <p>10 and then worked with our legal counsel for all</p> <p>11 the terms and conditions of it.</p> <p>12 Q. Okay. Was PBI an account of Alt Site?</p> <p>13 A. Yes.</p> <p>14 Q. And did you work with anyone within Alt</p> <p>15 Site in putting together this contract or in</p> <p>16 communicating with PBI?</p> <p>17 A. No.</p> <p>18 Q. Okay. Were you just contacted -- cold</p> <p>19 contacted by someone at PBI to come up with this</p> <p>20 type of arrangement?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> | <p>1 Q. Before we -- before -- Why don't you</p> <p>2 take a couple of minutes, Ms. Leone, to look at</p> <p>3 these two exhibits. And why don't we take a</p> <p>4 break so Tony can change the tape.</p> <p>5 THE VIDEOGRAPHER: We are off the</p> <p>6 record at 2:27 p.m. with the end of Tape No. 3.</p> <p>7 (A short break was had.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 2:28 p.m. with the start of Tape No. 4.</p> <p>10 BY MS. ST. PETER-GRIFFITH:</p> <p>11 Q. Ma'am, do you recognize Exhibit 9?</p> <p>12 A. No.</p> <p>13 Q. It references a letter from you; do you</p> <p>14 see that?</p> <p>15 A. Yes.</p> <p>16 Q. And it's concerning explaining the</p> <p>17 rebate and account breakdown for the first</p> <p>18 quarter?</p> <p>19 A. Yes.</p> <p>20 Q. Can you tell me, is that the letter, to</p> <p>21 your knowledge, that's Exhibit 10?</p> <p>22 A. Exhibit 10 was for a different customer</p> |
| Page 215 | Page 217 |
| <p>1 A. No. It actually came from Mr. Sellers.</p> <p>2 Q. Okay. It was his idea?</p> <p>3 A. No, PBI contacted him.</p> <p>4 Q. Oh, okay.</p> <p>5 A. And he assigned it to me.</p> <p>6 Q. Okay. Is there anything else that you</p> <p>7 can recall about this contract?</p> <p>8 A. No.</p> <p>9 MS. ST. PETER-GRIFFITH: Okay.</p> <p>10 Jarrett, if we can, No. 19, please, which has</p> <p>11 several documents in it. Can we have the May 18,</p> <p>12 2001 marked as Exhibit -- as the next exhibit.</p> <p>13 MR. ANDERSON: Yes.</p> <p>14 MS. ST. PETER-GRIFFITH: And then the</p> <p>15 next multi-page marked as the following exhibit.</p> <p>16 MR. ANDERSON: Okay. I am tendering to</p> <p>17 the witness Exhibit 9, which is a May 18, 2001</p> <p>18 letter and Exhibit 10, which is a May 7, 2001</p> <p>19 letter.</p> <p>20 (Deposition Exhibit Leone 009 and</p> <p>21 Exhibit Leone 010 marked as requested.)</p> <p>22 BY MS. ST. PETER-GRIFFITH:</p> | <p>1 than Exhibit 9.</p> <p>2 Q. Exhibit 10 is not --</p> <p>3 MS. ST. PETER-GRIFFITH: I'm sorry.</p> <p>4 Jarrett --</p> <p>5 MR. ANDERSON: Yes.</p> <p>6 MS. ST. PETER-GRIFFITH: -- do you have</p> <p>7 a May 7, 2001 letter as Exhibit 10?</p> <p>8 MR. ANDERSON: Yes.</p> <p>9 MS. CITERA: No, no, no. You know</p> <p>10 what? I think she's referring to this, the</p> <p>11 second page of Exhibit 9.</p> <p>12 THE WITNESS: Right.</p> <p>13 MS. CITERA: Which is very similar</p> <p>14 looking, but it's to a different addressee.</p> <p>15 THE WITNESS: Right.</p> <p>16 MS. ST. PETER-GRIFFITH: I have to tell</p> <p>17 you, I only have one page to Exhibit 9.</p> <p>18 MR. ANDERSON: Okay. Our Exhibit 9 has</p> <p>19 multiple pages.</p> <p>20 MS. ST. PETER-GRIFFITH: No. I'm just</p> <p>21 looking at Exhibit 9 as a one-page May 18, 2001</p> <p>22 letter. Can we take off the remaining pages?</p> |

55 (Pages 214 to 217)

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January 17, 2008

Chicago, IL

| Page 218 | Page 220 |
|---|--|
| <p>1 MS. CITERA: So from Craig Smith to 2 Frank Geiger? 3 MS. ST. PETER-GRIFFITH: Yes. 4 MR. ANDERSON: Then we will -- Why 5 doesn't everybody just return the extra pages to 6 9 back to me. 7 MS. CITERA: Well, I guess the only 8 thing is that I think she was asking if 10 9 referred to the -- was referring to 9. 10 MR. ANDERSON: Oh, I see. 11 MS. CITERA: And I think she's really 12 thinking of this. 13 MR. ANDERSON: Okay. Ann, what's 14 happened here is we have here the exhibit -- I 15 mean, pardon me, the letter that goes with 16 Exhibit 9 apparently. 17 MS. ST. PETER-GRIFFITH: Oh. What is 18 the -- What is the rest of Exhibit 9? What does 19 it look like? 20 MR. ANDERSON: Well, I might have to do 21 the questioning on it, I guess. It is a -- It's 22 a very similar letter to Exhibit 10 that contains</p> | <p>1 MR. ANDERSON: Right. What I'm trying 2 to point out to you is there's -- we might not 3 need to do all this on the record. 4 MS. ST. PETER-GRIFFITH: Okay. 5 MS. CITERA: I think we might want to 6 read the last question. That might clarify. 7 MS. ST. PETER-GRIFFITH: Toni, I'll 8 just ask the question over again. 9 MS. CITERA: Okay. Okay. So what are 10 we doing? 11 MS. ST. PETER-GRIFFITH: It's troubling 12 that these are not the same. 13 MR. ANDERSON: Let's go off the record. 14 THE VIDEOGRAPHER: We are off the 15 record at 2:32 p.m. 16 (Discussion off the record.) 17 THE VIDEOGRAPHER: We are back on the 18 record at 2:35 p.m. 19 BY MS. ST. PETER-GRIFFITH: 20 Q. Ms. Leone, have you had a chance to 21 look at Exhibit 9 and Exhibit 10? 22 A. Yes.</p> |
| Page 219 | Page 221 |
| <p>1 the disclosure that's contained in the second 2 paragraph of the letter that's marked as Exhibit 3 10. 4 MS. ST. PETER-GRIFFITH: Yeah. 5 MR. ANDERSON: It has the same 6 language. 7 MS. ST. PETER-GRIFFITH: What I wanted 8 to talk about was, and we can -- because I wanted 9 to put the May 18th letter with the May 7th 10 letter. 11 MR. ANDERSON: Right. 12 MS. ST. PETER-GRIFFITH: Okay. So why 13 don't we do that. And anything additional to 14 that that was attached to Exhibit 9, Jarrett, 15 you're free to ask about. 16 MR. ANDERSON: Okay. Well, let's go 17 off the record just a second and we'll get this 18 May 7th letter with the May 18th letter. 19 MS. ST. PETER-GRIFFITH: Okay. Well, 20 no. It's okay to have the May 18th letter as 21 Exhibit 9 and the May 7th as Exhibit 10. I 22 intended it that way.</p> | <p>1 Q. Okay. And is Exhibit 10 a May 7, 2001 2 letter from you to Mr. Geiger? 3 A. Yes. 4 Q. And is that Exhibit 10 letter the 5 letter that is referenced in the May 18, 2001 6 letter from Craig Smith? 7 A. Yes. 8 Q. Okay. Did you see the letter that Mr. 9 Smith sent out that references your letter? 10 A. Yes. 11 Q. Do you recall seeing that? 12 A. No. 13 Q. Okay. Do you recall learning from Mr. 14 Smith about any meeting with Coram? 15 A. No. 16 Q. Okay. If we could turn to Exhibit 10, 17 please, ma'am, what is this document? 18 A. This is the cover letter identifying 19 for Coram the rebates that they earned during the 20 first quarter of 2001. 21 Q. Okay. And can you explain how, for Alt 22 Site customers were rebates earned?</p> |

56 (Pages 218 to 221)

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| <p style="text-align: right;">Page 222</p> <p>1 MS. CITERA: Objection to the form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. Different agreements were set up</p> <p>4 differently. In some contracts, the customer</p> <p>5 might have had to reach certain thresholds in</p> <p>6 order to earn rebates. And based on whatever</p> <p>7 those sales thresholds were, they were able to</p> <p>8 earn dollars.</p> <p>9 In other rebates, it could have been a</p> <p>10 guaranteed rebate where they reached a certain --</p> <p>11 where they just earned -- regardless of what</p> <p>12 their sales were, they earned a rebate. I do not</p> <p>13 recall which the Coram agreement was.</p> <p>14 Q. Okay. Is a rebate distinguishable --</p> <p>15 Well, let me ask you this: What at Abbott was</p> <p>16 known as a credit memo?</p> <p>17 MS. CITERA: Objection, form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. A credit memo was a document that could</p> <p>20 have been a rebate in that the rebate was paid to</p> <p>21 the customer in the form of a credit memo that</p> <p>22 would be used to purchase additional product</p> | <p style="text-align: right;">Page 224</p> <p>1 also counsel you not to reveal any discussions</p> <p>2 with counsel.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Abbott had a policy of including</p> <p>5 disclosure language in all of our contracts and</p> <p>6 all of our invoices and all of our credit memos</p> <p>7 for as long as I can remember. It was part of --</p> <p>8 It was part of just our -- the way we did</p> <p>9 business.</p> <p>10 Q. And do you recall when that practice</p> <p>11 started?</p> <p>12 A. No, I do not.</p> <p>13 Q. Was it before you started at -- in your</p> <p>14 position as Contract Marketing manager in</p> <p>15 Alternate Site?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you recall how many of these types</p> <p>18 of letters you sent out?</p> <p>19 MS. CITERA: Objection, form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Whenever we -- You're talking about the</p> <p>22 May 7th letter to Frank Geiger?</p> |
| <p style="text-align: right;">Page 223</p> <p>1 going forward. A credit memo would also be</p> <p>2 initiated if a customer purchased something and</p> <p>3 then returned it, and we would issue a credit</p> <p>4 memo for the original -- for the original product</p> <p>5 that they purchased. So it could have been one</p> <p>6 or the other of those things.</p> <p>7 Q. Okay. If it was the former, if it was</p> <p>8 the first, would you advise or would Abbott</p> <p>9 Alternate Site advise clients receiving the</p> <p>10 credit memo that they -- that the credit memo may</p> <p>11 constitute a discount within the meaning of 42</p> <p>12 U.S.C. 1320 comparable to the language contained</p> <p>13 in Exhibit 10, Paragraph 2?</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. There was discount disclosure language</p> <p>17 on the credit memos.</p> <p>18 Q. Okay. What is the discount disclosure</p> <p>19 -- Why does Abbott provide the discount</p> <p>20 disclosure language to its clients when it</p> <p>21 provided them with rebates or credit memos?</p> <p>22 MS. CITERA: Object to the form, and</p> | <p style="text-align: right;">Page 225</p> <p>1 Q. Yes.</p> <p>2 A. This was the cover -- This is the cover</p> <p>3 letter that we -- we prepared to go along with</p> <p>4 every rebate payment that we paid to any one of</p> <p>5 our customers. We were identifying what the</p> <p>6 value of the rebate was. We included the backup</p> <p>7 documentation that showed the rebate, how they</p> <p>8 earned it, and then we had the disclosure</p> <p>9 language.</p> <p>10 Q. Okay.</p> <p>11 A. And that's what the backup was --</p> <p>12 that's what the backup is.</p> <p>13 Q. The backup meaning the pages that are</p> <p>14 attached as Pages 2 through, I think, 7 or 8 of</p> <p>15 this -- of the rest of the exhibit?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. How was that backup information</p> <p>18 generated?</p> <p>19 A. It was generated through our systems.</p> <p>20 We ran sales reports through our systems.</p> <p>21 Q. Within Abbott Alternate Site or within</p> <p>22 HPD, to your knowledge, was there ever any</p> |

57 (Pages 222 to 225)

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January 17, 2008

Chicago, IL

| Page 226 | Page 228 |
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| <p>1 discussions about providing a disclosure to 2 Abbott's customers that it might need to report 3 the -- that the customers or Abbott might need to 4 report the differences between the contract price 5 that you negotiated with the client and AWP? 6 MS. CITERA: Objection to the form. I 7 also caution you not to reveal discussions with 8 counsel. 9 BY THE WITNESS: 10 A. The disclosure that we provided was 11 based on the products that the customers were 12 purchasing, and AWP didn't have anything to do 13 with -- to do with that. 14 Q. What do you mean AWP didn't have 15 anything to do with that? 16 A. AWP didn't have anything to do with 17 what products -- what -- what we were providing 18 them. When we gave them this backup 19 documentation, it was -- this was based on all of 20 the products that they purchased, not just -- not 21 just products that could have had an NDC number 22 that would have had an AWP tied to them. So this</p> | <p>1 federal officials or to state officials? 2 MS. CITERA: Objection to the form. 3 Also the same caution. 4 BY THE WITNESS: 5 A. I don't know that that -- that that 6 type of disclosure ever happened. 7 Q. Okay. Do you know whether it was ever 8 considered? 9 A. I do not -- 10 MS. CITERA: Objection to form. 11 BY THE WITNESS: 12 A. I do know whether it was ever 13 considered. 14 Q. Okay. Would you have been involved in 15 such considerations as a manager of Contract 16 Marketing? 17 MS. CITERA: Objection to form. 18 BY THE WITNESS: 19 A. I don't know whether I would have or 20 not. 21 Q. Did -- Were there ever any discussions 22 at all within your Contract Marketing unit about</p> |
| Page 227 | Page 229 |
| <p>1 was -- what we were providing disclosure for was 2 the purchases that they made for all of the 3 products. So it wasn't -- it wasn't tied to AWP; 4 it was tied to everything that they purchased. 5 And AWP -- 6 Q. I understand that, but I'm asking 7 actually a different question. I want to step 8 back from -- And I'm not asking questions about 9 the disclosure of a rebate as a discount. 10 My question to you is: Abbott engaged 11 in the practice of providing disclosures to its 12 clients, correct, that a rebate may constitute a 13 discount; is that right? 14 A. Correct. 15 Q. My question is, with regard to 16 differences in prices between AWP's or the catalog 17 prices, Abbott's catalog prices, and the contract 18 prices negotiated with the clients, was there 19 ever any consideration to Abbott making a 20 disclosure to clients that it need -- that either 21 Abbott or its clients needed to disclose that 22 difference between AWP and the contract price to</p> | <p>1 whether there needed to be some disclosure about 2 the spread between Abbott's contract prices or 3 AWP's and -- I'm sorry, its catalog prices or AWP's 4 and its contract prices? 5 MS. CITERA: Objection to form and same 6 caution. 7 BY THE WITNESS: 8 A. I was never involved in any discussions 9 regarding reporting the discount between contract 10 prices or AWP. 11 Q. Okay. Were there discussions, to your 12 knowledge? 13 MS. CITERA: Objection to form. 14 BY THE WITNESS: 15 A. I don't know whether there were ever 16 discussions. 17 Q. Who would you have expected to have 18 those discussions, if there were any? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. I don't know. 22 MS. ST. PETER-GRIFFITH: Okay. If we</p> |

58 (Pages 226 to 229)

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| <p style="text-align: right;">Page 230</p> <p>1 could move on to the next exhibit, which I 2 believe is Exhibit 11. 3 MR. ANDERSON: I'm marking a May 7th, 4 2001 letter to Lincare as Exhibit 11. 5 (Deposition Exhibit Leone 011 6 marked as requested.) 7 BY MS. ST. PETER-GRIFFITH: 8 Q. Ma'am, have you had a chance to look at 9 this? 10 A. Yes, I have. 11 Q. Do you recognize this document? 12 A. No. 13 Q. It appears to be a letter drafted by 14 you to Lincare; do you see that? 15 A. Yes. 16 Q. Do you have any doubt that you drafted 17 and sent this letter? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. Actually, I did not draft this letter. 21 It was a form letter, as was the Coram letter. 22 Q. Okay.</p> | <p style="text-align: right;">Page 232</p> <p>1 that we have with the Coram letter, there was 2 something comparable to that with this Lincare 3 letter that showed how the 16,209 was calculated. 4 Q. Okay. So it's comparable to a rebate? 5 A. It is a rebate. 6 Q. Okay. Are there -- Were there any 7 other terms for rebates that was used within Alt 8 Site? 9 A. Probably either a dividend, rebate, or 10 a discount. It probably would have been one of 11 those three. 12 Q. Okay. Or a credit memo? 13 A. Well, the rebate would have been 14 payable as a credit memo. 15 Q. Oh, I see. Okay. Was Lincare a large 16 account? 17 MS. CITERA: Object to the form. 18 BY THE WITNESS: 19 A. You know, I don't remember what their - 20 - what their -- where they -- where they ranked 21 in the customers. 22 Q. Okay.</p> |
| <p style="text-align: right;">Page 231</p> <p>1 A. Because you can see that it was a form 2 letter when we -- when we did our calculations 3 for rebates, what we would do is we had this form 4 letter that was created for us by our legal 5 department and then we just filled in the 6 customer's name, the period, and the amount of 7 the rebates. And in this case, Pat Glotz 8 actually did it on my behalf. 9 Q. Okay. And who is Ms. Glotz? 10 A. She was my supervisor for contract 11 administration, and it was her responsibility to 12 do the calculations for rebates, to run the sales 13 reports and do the calculations. 14 Q. Okay. Ma'am, what is a quarterly 15 performance dividend? 16 A. It's what I described to you a few 17 minutes ago. In this case, Lincare had a 18 contract with us where they were eligible to earn 19 rebates based on hitting certain performance 20 levels in sales. And based on whatever those 21 levels were, we paid them X percent of the total 22 sales. So the same type of backup documentation</p> | <p style="text-align: right;">Page 233</p> <p>1 MS. ST. PETER-GRIFFITH: If we could 2 move on to the next exhibit, which is 23, 3 Jarrett. 4 MR. ANDERSON: Yes. I'm marking 5 Exhibit 12 and tendering that to the witness. 6 (Deposition Exhibit Leone 012 7 marked as requested.) 8 BY MS. ST. PETER-GRIFFITH: 9 Q. Ma'am, are you familiar with this 10 document? 11 A. Yes. 12 Q. What is this document? 13 A. We were in late 2002 looking at having 14 a consultant come in and look at everything we 15 were doing in Contract Marketing, do an 16 assessment of our systems, our business 17 processes, and our structures. And so this was 18 the -- the base letter that we sent to nine 19 different consulting companies asking them to 20 come in. And what we did is we met with all nine 21 of them and then we submitted -- we sent them an 22 RFP and asked them to submit a proposal to us.</p> |

59 (Pages 230 to 233)

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January 17, 2008

Chicago, IL

| Page 234 | Page 236 |
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| <p>1 Q. Is this the special project that you 2 were referencing that you worked on? 3 A. No, although this was another project. 4 But this was a project once I was back in 5 Contract Marketing. 6 The special project I was talking about 7 from 2001 through the summer of 2002 was working 8 on the order management system, the transition 9 for -- I was representing the Hospital Products 10 Division on the transition team from the old 11 order processing system to the SAP system that 12 Abbott eventually adopted. 13 Q. Okay. 14 A. So this was a different project that I 15 was working on. 16 Q. What -- Why did Abbott decide to go 17 through this evaluation process? 18 MS. CITERA: Objection to the form. 19 BY THE WITNESS: 20 A. Well, I think if you look at the first 21 five dot points, it kind of describes what we 22 were looking for: somebody to come in and do an</p> | <p>1 someone? 2 A. No, we did not. We never got the 3 funding to do the project. 4 Q. Okay. And was this Mr. Seller's idea 5 to do this? 6 A. I don't know whether Mike initiated it 7 or somebody asked Mike to initiate it. 8 Q. Okay. Somebody within Hospital 9 Products Division or outside of Hospital Products 10 Division? 11 A. It would have been somebody within the 12 Hospital Products Division. 13 Q. Do you know who that someone might have 14 been? 15 A. No. That's what I'm saying, if 16 somebody asked Mike to initiate this project, it 17 probably would have been somebody within HPD. 18 Q. Well, it seems like kind of an 19 important project. Do you know why you didn't 20 get funding for it? 21 MS. CITERA: Objection to form. 22 BY THE WITNESS:</p> |
| Page 235 | Page 237 |
| <p>1 assessment, see if we have the right people doing 2 the right jobs, looking at our systems to see if 3 the systems -- our contract administration 4 system, our charge-back system, and all the other 5 systems we had in place were still appropriate 6 for the way we were doing business or whether we 7 needed to do something as we went forward as an 8 organization. 9 Q. To your knowledge, who's -- who signed 10 off on this project being done? 11 MS. CITERA: Object to the form. 12 BY THE WITNESS: 13 A. It was actually -- Alan Greenthal and I 14 actually worked on it based on a request from 15 Mike Sellers. And really what the project was 16 that we worked on was meeting with these nine 17 consulting firms that we spoke with, walking them 18 through what we were currently doing, and then we 19 submitted an RFP to them for them to come back 20 and give us an estimate for what they thought it 21 would cost and what the project would entail. 22 Q. Okay. And did you end up hiring</p> | <p>1 A. No. 2 Q. Was it something that you thought 3 needed to be done within -- an evaluation that 4 needed to be done of HPD? 5 A. We thought it was something that needed 6 to be done within the Contract Marketing 7 department. 8 Q. Okay. If you could turn to the next 9 exhibit. I'm not going to spend too much time 10 with this because I think you've answered a lot 11 of my questions already. 12 MS. ST. PETER-GRIFFITH: It's No. 31, 13 Jarrett. 14 MR. ANDERSON: 13, yes. Here we go, 15 tendering what's been marked as Leone Deposition 16 Exhibit No. 13, a response to a request for 17 proposal. 18 (Deposition Exhibit Leone 013 19 marked as requested.) 20 BY MS. ST. PETER-GRIFFITH: 21 Q. Ma'am, is this a response that was 22 provided by one of these nine groups that you're</p> |

60 (Pages 234 to 237)

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January 17, 2008

Chicago, IL

| Page 238 | Page 240 |
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| <p>1 talking about?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Was -- Do you know whether this</p> <p>4 request was initiated incident to or as a follow-</p> <p>5 up to the TAP criminal plea?</p> <p>6 MS. CITERA: Objection to the form.</p> <p>7 BY MS. ST. PETER-GRIFFITH:</p> <p>8 Q. When I say the "TAP criminal plea," do</p> <p>9 you know what I'm talking about?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What is your understanding of the TAP</p> <p>12 criminal plea?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. There was -- there was allegations I</p> <p>16 believe that sample products that TAP provided to</p> <p>17 physicians, samples of I believe Lupron, provided</p> <p>18 to patients were then billed to payors. I mean,</p> <p>19 I think that was -- that was the over -- that was</p> <p>20 the main thrust of that.</p> <p>21 Q. Were you aware of any allegations</p> <p>22 concerning TAP engaging in spread marketing</p> | <p>1 needed to start thinking about doing something</p> <p>2 different. And that was really -- And going in</p> <p>3 and restructuring the department was just another</p> <p>4 piece of that. But the biggest issue we had was</p> <p>5 the fact that our systems, our contracting</p> <p>6 systems were so old.</p> <p>7 Q. Okay. I'm actually asking a slightly</p> <p>8 different question. I'd like to just kind of</p> <p>9 separate -- get out of your mind sort of the</p> <p>10 prior issue that we were discussing concerning</p> <p>11 the consulting group.</p> <p>12 A. Okay.</p> <p>13 Q. Independent of the reasons behind</p> <p>14 engaging or contemplating engaging a consulting</p> <p>15 group, what I'd like to know is within Abbott,</p> <p>16 HPD, after Abbott consented to, as a joint</p> <p>17 venturer, the criminal plea in the TAP case, was</p> <p>18 there any concern or consideration that maybe the</p> <p>19 Abbott Hospital Products Division needed to look</p> <p>20 at how it engaged in the marketing of its</p> <p>21 pharmaceutical products?</p> <p>22 MS. CITERA: Object to the form and</p> |
| Page 239 | Page 241 |
| <p>1 illegally?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I was not aware of that piece of it.</p> <p>5 Q. Okay. Were there any concerns about</p> <p>6 after the -- after Abbott consented to, as a</p> <p>7 joint venturer of TAP, the criminal plea, were</p> <p>8 there any concerns within Hospital Products</p> <p>9 Division that maybe you folks needed to look at</p> <p>10 how you were doing business to ensure that you</p> <p>11 were conforming to federal and state law?</p> <p>12 MS. CITERA: Objection to the form, and</p> <p>13 also caution you not to reveal any discussions</p> <p>14 with counsel.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Actually, our bigger concern when we</p> <p>17 did this study was the fact that our current</p> <p>18 contract administration system at that time was</p> <p>19 ten years old, our charge-back system was ten</p> <p>20 years old. We were really looking at doing -- We</p> <p>21 were really looking at the fact that, from a</p> <p>22 systems perspective, they were antiques and we</p> | <p>1 same caution.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I was not aware or involved in any</p> <p>4 discussions along those lines.</p> <p>5 Q. Well, were you aware of any concerns</p> <p>6 along those lines?</p> <p>7 MS. CITERA: Object to the form and</p> <p>8 same caution.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I was not -- I was not involved in any</p> <p>11 discussions that there were any concerns for the</p> <p>12 Hospital Products Division related to that.</p> <p>13 Q. Well, do you think that the TAP</p> <p>14 criminal plea was a pretty big deal?</p> <p>15 MS. CITERA: Objection, form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Yeah, I do think it was a big deal.</p> <p>18 Q. Do you know -- Well, do you think it</p> <p>19 would have been prudent for maybe Abbott Hospital</p> <p>20 Products Division to look at its own conduct and</p> <p>21 evaluate whether or not it had comparable</p> <p>22 problems to the problems at TAP?</p> |

61 (Pages 238 to 241)

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| <p style="text-align: right;">Page 242</p> <p>1 MS. CITERA: Objection to the form, 2 same caution. 3 BY THE WITNESS: 4 A. I don't know that -- I was never 5 involved in any discussions that indicated that 6 the Hospital Products Division had any concerns 7 related to activities that could have been 8 comparable to what TAP was -- the TAP situation. 9 Q. Were you aware of any spread marketing 10 activities within the Hospital Products Division? 11 MS. CITERA: Objection to the form. 12 BY THE WITNESS: 13 A. I do not believe that we marketed our 14 products based on the spread or that -- it was 15 not the way the hospital products business -- 16 Hospital Products Division and Alternate Site 17 product sales ever did its business. 18 Q. What is the genesis of your belief? 19 Why do you believe that? 20 A. Going back to when I first went into 21 Alternate Site Product Sales, it was always our 22 business practice to not market against the</p> | <p style="text-align: right;">Page 244</p> <p>1 there were some discussions with the sales force 2 -- I don't know when and I don't know who had 3 those discussions, and I don't -- that our 4 business practice was not to sell against the 5 spread or to discuss AWP with our customers. 6 Q. Well, wouldn't your sales force know 7 that if that's their business practice? Why 8 would you need to have a discussion with them? 9 MS. CITERA: Object to the form. 10 BY THE WITNESS: 11 A. Mostly to reiterate that is our policy 12 and to remind them that our business practices 13 were to sell based on our entire portfolio of 14 products. 15 Q. Well, why did you have a need to remind 16 them of that if they were not engaging in those 17 practices -- 18 MS. CITERA: Objection to the form. 19 BY MS. ST. PETER-GRIFFITH: 20 Q. -- marketing practices? 21 A. Just as a reminder to let people know. 22 New people were always coming into the</p> |
| <p style="text-align: right;">Page 243</p> <p>1 spread and -- the AWP spread, and we marketed our 2 products based upon the depth and breadth of the 3 product line and what the entire portfolio of 4 products and a relationship with Abbott could 5 bring to those customers and not based on the 6 spread for a few individual products. 7 Q. Was that a published policy someplace? 8 MS. CITERA: Objection to the form. 9 BY THE WITNESS: 10 A. I do not know or recall if there was a 11 published policy related to that. 12 Q. Then how do you know that that was what 13 was followed within the Alternate Site business 14 unit? 15 A. The -- Our business practice was to 16 sell on the products and the portfolio and not to 17 sell on the spread. 18 Q. But how do you know as a matter of fact 19 that that's what your sales force was doing? 20 MS. CITERA: Objection to the form. 21 BY THE WITNESS: 22 A. They were -- At some point I believe</p> | <p style="text-align: right;">Page 245</p> <p>1 organization. You wanted to make sure everybody 2 was aware of what our policies were and our 3 processes as an organization and how to sell, how 4 to sell those products. 5 Q. Ms. Leone, as the Contract Marketing -- 6 as the former Contract Marketing manager, do you 7 know as a fact that during your tenure in 8 Alternate Site none of the sales force marketed 9 the spread? 10 MS. CITERA: Object to the form. 11 BY THE WITNESS: 12 A. I can only tell you that it was not our 13 business practice to do that. If it happened, I 14 don't know about it. 15 Q. How did you verify whether or not the 16 sales force was or was not marketing the spread 17 or was complying with Abbott's policy? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. I don't recall that we had anything in 21 place in the late -- mid to late '90s -- well, 22 late '90s to identify that.</p> |

62 (Pages 242 to 245)

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| <p style="text-align: right;">Page 246</p> <p>1 Q. Okay. What about in early 2000, in the 2 early 2000s?</p> <p>3 A. When we -- When we did all of those 4 policies and procedures that we worked on, we -- 5 there was company-wide training on the Federal 6 Healthcare Program Guidelines. And although I 7 can't remember specifically, I believe that there 8 was discussion in that training about the -- 9 those types of guidelines.</p> <p>10 In addition, our legal department in 11 the -- in early 2000 did training sessions with 12 whole groups of employees across the Hospital 13 Products Division talking about the general -- 14 general fraud and abuse guidelines. And they 15 were some -- they did do some sessions with our 16 entire sales force at different times. They did 17 each district separately. And then they also had 18 sessions with people in home office.</p> <p>19 Q. Okay. Let's break that down a little 20 bit. With regard to the -- before the 2000 21 meetings with legal, you were talking about a 22 policy -- or you were talking about the policies.</p> | <p style="text-align: right;">Page 248</p> <p>1 A. All I can say is that it was our 2 business practice not to do that. And if it 3 happened, I was not aware of it.</p> <p>4 Q. Okay. But it could have happened; you 5 just weren't aware of it?</p> <p>6 MS. CITERA: Objection to form. 7 BY THE WITNESS:</p> <p>8 A. Again, I don't know whether it did or 9 not.</p> <p>10 Q. But it could have happened?</p> <p>11 MS. CITERA: Objection to form. 12 BY THE WITNESS:</p> <p>13 A. It could have happened.</p> <p>14 Q. Okay. If this was an important policy 15 to Abbott, why didn't Abbott Alternate Site 16 implement some kind of methodology to ensure that 17 its sales force was not marketing the spread?</p> <p>18 MS. CITERA: Objection to form. 19 BY THE WITNESS:</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. If you could turn to -- 22 MS. ST. PETER-GRIFFITH: Have we marked</p> |
| <p style="text-align: right;">Page 247</p> <p>1 Those are the ones developed in 2003, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. That you helped work on?</p> <p>4 A. Yes.</p> <p>5 Q. And in terms of the training, is that 6 the "Safeguarding Trust" program.</p> <p>7 A. Yes.</p> <p>8 Q. And wasn't the "Safeguarding Trust" 9 program developed incident to Abbott's entry into 10 a corporate integrity agreement with the United 11 States?</p> <p>12 MS. CITERA: Objection to the form. 13 BY THE WITNESS:</p> <p>14 A. I believe that that was part of it, 15 yes.</p> <p>16 Q. Okay. So prior to 2003, other than 17 this meeting with legal, you have -- it's your 18 testimony that you're unaware of any way of 19 verifying whether or not sales force members out 20 in the field engaged in spread marketing?</p> <p>21 MS. CITERA: Objection to form. 22 BY THE WITNESS:</p> | <p style="text-align: right;">Page 249</p> <p>1 the next exhibit, Jarrett, No. 32?</p> <p>2 MR. ANDERSON: No, but I will. Hold on 3 one second.</p> <p>4 MS. ST. PETER-GRIFFITH: Actually what 5 I'd like to do is skip No. 32 and move on to No. 6 54, please.</p> <p>7 MR. ANDERSON: Okay.</p> <p>8 MS. ST. PETER-GRIFFITH: And, Jarrett, 9 could you just look at that and ensure that 10 that's not a prior exhibit?</p> <p>11 MR. ANDERSON: Sure. Hold on. I'm 12 marking as Exhibit 14 a two-page document. Ann, 13 it appears similar to some past exhibits but not 14 identical.</p> <p>15 MS. ST. PETER-GRIFFITH: Okay. 16 (Deposition Exhibit Leone 014 17 marked as requested.) 18 BY MS. ST. PETER-GRIFFITH:</p> <p>19 Q. Ma'am, if you could just take this two- 20 page document and take a look at it.</p> <p>21 A. Okay.</p> <p>22 Q. Do you recognize this document?</p> |

63 (Pages 246 to 249)

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| <p style="text-align: right;">Page 250</p> <p>1 A. I -- I mean, it's got my name on it, so 2 I must have gotten it. But I don't remember it. 3 Q. Do you have any doubts you received 4 this email? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. I have no doubts that I received this 8 email. 9 Q. Would you routinely receive emails from 10 Mr. Cicerale of this type, of this nature? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. No, I did not. 14 Q. Okay. The second or the third sentence 15 of this email says, "You should calculate the AWP 16 using the same percentage as our other HPD 17 items." Do you see that? 18 A. Yes. 19 Q. Do you know what that means? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. No.</p> | <p style="text-align: right;">Page 252</p> <p>1 BY THE WITNESS: 2 A. Not that I know of. 3 Q. Okay. Is it possible that they could 4 have? 5 MS. CITERA: Objection to form. 6 BY MS. ST. PETER-GRIFFITH: 7 Q. That Abbott could have and you just 8 weren't aware of it? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. I don't believe that Abbott ever 12 identified for the compendia what the percentage 13 was that should be used to calculate the AWP. 14 Q. Except in this email? 15 MS. CITERA: Object to the form. 16 BY THE WITNESS: 17 A. And I don't know why Jerrie wrote that. 18 Q. Okay. Ma'am, if you could -- 19 MS. ST. PETER-GRIFFITH: Jarrett, if we 20 can move on to the next exhibit. And it's going 21 to be my last exhibit for the day. And it's File 22 No. 57, Jarrett. We're skipping 52.</p> |
| <p style="text-align: right;">Page 251</p> <p>1 Q. Do you recall having any commentary on 2 this particular email? 3 A. No, I do not. 4 Q. Do you know what Abbott's policy was 5 with regard to setting AWP? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. As I said earlier this morning, my 9 understanding was that HPD sent a price to the 10 compendia and they calculated an AWP based on the 11 price that we sent them. Based on the last 12 sentence, it would appear that that's what Jerrie 13 is asking them to do. 14 Q. Okay. Do you know what "using the same 15 percentage as our other HPD items" means? 16 MS. CITERA: Objection to form. 17 BY THE WITNESS: 18 A. No. 19 Q. Okay. Did Abbott identify for Red Book 20 a particular percentage to be utilized in 21 calculating AWP? 22 MS. CITERA: Objection to form.</p> | <p style="text-align: right;">Page 253</p> <p>1 MR. ANDERSON: Okay. I'm tendering to 2 the witness what's been marked as Exhibit 15, a 3 March 8, 1999 letter. 4 (Deposition Exhibit Leone 015 5 marked as requested.) 6 BY MS. ST. PETER-GRIFFITH: 7 Q. Ma'am, I'm not going to spend a lot of 8 time on this document with you. My primary focus 9 is going to be on the last sentence of this -- 10 the last typewritten sentence of this memo. But 11 you're free to take as much time as you need with 12 this document. 13 A. What were you going to focus on here? 14 I'm sorry. 15 Q. The last typewritten sentence. 16 A. Okay. 17 Q. Ma'am, do you recognize this document? 18 A. No. 19 Q. Do you recognize that you are an 20 addressee on this particular memo from Marianne 21 Sutcliffe? 22 A. Yes, I do.</p> |

64 (Pages 250 to 253)

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| <p style="text-align: right;">Page 254</p> <p>1 Q. Do you have any doubt that you received 2 this memo? 3 A. I have no doubt -- 4 MS. CITERA: Objection to form. 5 BY THE WITNESS: 6 A. I have no doubt that I received this. 7 Q. Ma'am, do you remember anything about 8 the subject matter of this memo concerning Owen 9 and Cardinal contracting groups? 10 A. I do not recall this at all. 11 Q. Do you recall a meeting being scheduled 12 with Rick Gonzalez to discuss the response to an 13 Owen or Cardinal issue? 14 A. I do not recall a meeting, nor do I 15 recall being in a meeting with Mr. Gonzalez to 16 discuss this. 17 Q. Okay. We're done with that exhibit. 18 Ma'am, I'd like to follow up a little 19 on a statement you made earlier concerning the 20 legal department having meetings with groups -- 21 is it within the Hospital Products Division or 22 Abbott-wide?</p> | <p style="text-align: right;">Page 256</p> <p>1 take a break. 2 MS. CITERA: I mean, maybe you can ask 3 a foundational question as to whether she 4 remembers. 5 BY MS. ST. PETER-GRIFFITH: 6 Q. Okay. What do you remember -- Do you 7 remember these meetings taking place? 8 A. Yes, I do remember those meetings 9 taking place. 10 Q. Who conducted the meetings? 11 A. One of the attorneys from our inside 12 counsel. 13 Q. Who was that? 14 A. Tajal Vakharia. 15 Q. And who attended the meeting? 16 A. I attended two of them. One was with 17 people in our office within -- you know, in the 18 home office; and the second was a district 19 meeting for one of the sales districts. 20 Q. Okay. And where was that district 21 meeting located? 22 A. I'm thinking it was at the -- at the</p> |
| <p style="text-align: right;">Page 255</p> <p>1 A. All I can speak to is the Hospital 2 Products Division and Alternate Site Product 3 Sales. 4 Q. Okay. At the time of the meeting, you 5 were in Alt Site? 6 A. Yes. And I believe these meetings were 7 held in 2000. 8 Q. Okay. And what were the meetings 9 about? 10 MS. CITERA: Objection to form. I'm 11 going to counsel you not to reveal discussions 12 with attorneys, so -- I'm sorry. Can you -- Your 13 question is what were the meetings about? 14 MS. ST. PETER-GRIFFITH: Yes. 15 MS. CITERA: The meetings with the 16 attorneys? 17 MS. ST. PETER-GRIFFITH: Well, the 18 group meetings, yeah, where the attorneys were. 19 MS. CITERA: I need to think about that 20 one, Ann. Can we take a break, a few-minute 21 break? 22 MS. ST. PETER-GRIFFITH: Sure. We can</p> | <p style="text-align: right;">Page 257</p> <p>1 Marriott Lincolnshire Resort in Lincolnshire, 2 Illinois. 3 Q. Okay. Who attended that meeting? 4 A. The district, that was the Midwest 5 district -- It was a district sales meeting, and 6 it was the Midwest district sales reps. 7 Q. Okay. And who attended the meeting at 8 the home office? 9 A. All of the people in Alternate Site 10 Product Sales who were in the home office. 11 Q. Okay. And how many people did that 12 include? 13 A. I'd say there's probably 20 or 25, 14 maybe that's too many. 15 Q. Okay. And were the attorneys at the -- 16 Okay. And how many people attended the Midwest 17 district sales meeting? 18 A. I believe that it was the entire 19 Midwest district sales force, and there were some 20 marketing managers who were there also. 21 Q. Okay. And how many were there? 22 A. Probably about 15 to 20.</p> |

65 (Pages 254 to 257)

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| <p style="text-align: right;">Page 258</p> <p>1 Q. Okay. And what was the purpose of the</p> <p>2 meeting?</p> <p>3 MS. CITERA: Object to the form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. To give us a general overview of fraud</p> <p>6 and abuse guidelines.</p> <p>7 Q. And were there any written materials</p> <p>8 handed out at these meetings?</p> <p>9 A. I don't remember.</p> <p>10 Q. Would you have saved them?</p> <p>11 A. Actually, I think there was a little</p> <p>12 pamphlet that Abbott had put together. I don't</p> <p>13 know whether I have a copy of it anymore, but ...</p> <p>14 Q. Was that the business code of conduct?</p> <p>15 A. No, there was a separate -- I believe</p> <p>16 there was a separate document that the legal</p> <p>17 department put together on fraud and abuse.</p> <p>18 Q. And do you remember what that pamphlet</p> <p>19 said?</p> <p>20 MS. CITERA: I'm going to just caution</p> <p>21 you. I mean, was this -- I'm going to caution</p> <p>22 you not to reveal any advice from counsel.</p> | <p style="text-align: right;">Page 260</p> <p>1 little pamphlet that we received.</p> <p>2 Q. And what was discussed in the pamphlet?</p> <p>3 A. Just an overview of fraud and abuse</p> <p>4 guidelines. I believe there was -- That's all I</p> <p>5 can remember.</p> <p>6 Q. Do you recall whether there was</p> <p>7 discussion of the False Claims Act and</p> <p>8 Antikickback Statute?</p> <p>9 A. I believe both of those were addressed</p> <p>10 in that document.</p> <p>11 Q. What about the spread and marketing the</p> <p>12 spread?</p> <p>13 A. No, that was not -- that was not</p> <p>14 included.</p> <p>15 Q. Okay. What was discussed at the</p> <p>16 meeting with the Alt Site sales -- Well, let me</p> <p>17 ask you this: Was the meeting with the Alt Site</p> <p>18 sales force generally the same subject matter as</p> <p>19 the meeting with the district sales force?</p> <p>20 A. Yes.</p> <p>21 Q. I'm sorry. Did you respond?</p> <p>22 A. Yes, I did. I said yes, it was. And</p> |
| <p style="text-align: right;">Page 259</p> <p>1 MS. ST. PETER-GRIFFITH: Hold it, Toni.</p> <p>2 I mean, are you cautioning her not to discuss the</p> <p>3 contents of this stuff? Because obviously this</p> <p>4 isn't privileged. They're group-wide meetings.</p> <p>5 MS. CITERA: Well, that's why I said I</p> <p>6 wanted to take a break because I wanted to think</p> <p>7 about it. I'm happy you asked some foundational</p> <p>8 questions so I can understand it better, but I'd</p> <p>9 like to take a few minutes to think about it.</p> <p>10 MS. ST. PETER-GRIFFITH: Why don't you</p> <p>11 take a break, then, and do that.</p> <p>12 MS. CITERA: Okay.</p> <p>13 THE VIDEOGRAPHER: We are off the</p> <p>14 record at 3:19 p.m.</p> <p>15 (Brief pause.)</p> <p>16 THE VIDEOGRAPHER: We're back on the</p> <p>17 record at 3:19 p.m.</p> <p>18 MS. ST. PETER-GRIFFITH: Madam Court</p> <p>19 Reporter, can you please read the question back?</p> <p>20 (Record read as requested.)</p> <p>21 BY THE WITNESS:</p> <p>22 A. No, it wasn't. It was a separate</p> | <p style="text-align: right;">Page 261</p> <p>1 it was again discussion of the Fraud and Abuse</p> <p>2 and Antikickback statutes.</p> <p>3 Q. Do you recall what was discussed there?</p> <p>4 A. Just some high-level discussion of</p> <p>5 those two -- of those two acts and what they</p> <p>6 meant.</p> <p>7 Q. Okay. And in discussing what they</p> <p>8 meant was there any discussion about spread</p> <p>9 marketing?</p> <p>10 A. I do not recall that that was part of</p> <p>11 the presentation that was done.</p> <p>12 Q. Do you know why the presentation was</p> <p>13 being made at that time?</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. No, I don't remember why.</p> <p>17 Q. Could it have been incident to the TAP</p> <p>18 investigation?</p> <p>19 MS. CITERA: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I don't remember what precipitated it</p> <p>22 at all.</p> |

66 (Pages 258 to 261)

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| <p style="text-align: right;">Page 262</p> <p>1 Q. Do you remember learning about the</p> <p>2 United States issuing a civil investigative</p> <p>3 demand in '96 to Abbott?</p> <p>4 A. I didn't remember when -- I don't</p> <p>5 remember when it happened. I remember becoming</p> <p>6 aware of things in the late '90s, but I didn't</p> <p>7 remember exactly when it started.</p> <p>8 Q. Okay. Do you know whether this</p> <p>9 presentation may have been made by the legal</p> <p>10 department because of the investigations by the</p> <p>11 United States or any state officials -- for</p> <p>12 example, the State of Texas officials?</p> <p>13 MS. CITERA: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. No, I do not.</p> <p>16 Q. Do you know why -- or did you have any</p> <p>17 concerns at that time that there might be spread</p> <p>18 marketing activity that should be discussed or</p> <p>19 spread marketing prohibitions that should be</p> <p>20 discussed at this meeting?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> | <p style="text-align: right;">Page 264</p> <p>1 last was V A K H A R I A.</p> <p>2 Q. And was she the sole presenter?</p> <p>3 A. As I remember it, yes.</p> <p>4 Q. Do you recall how long these meetings</p> <p>5 lasted?</p> <p>6 A. I believe it was about an hour, hour</p> <p>7 and a half, something like that.</p> <p>8 Q. And were they mandatory for all of the</p> <p>9 Alternate Site staff and all of the district</p> <p>10 sales individuals attending the meeting?</p> <p>11 A. I believe they were.</p> <p>12 Q. Did you have to, you know, for example,</p> <p>13 sign a sheet indicating that you were attending</p> <p>14 the meeting?</p> <p>15 A. I don't remember.</p> <p>16 Q. And have we exhausted your memory</p> <p>17 concerning that meeting?</p> <p>18 A. Yes.</p> <p>19 Q. Or those two meetings, I should say.</p> <p>20 Do you recall any other compliance-type</p> <p>21 meetings or initiatives undertaken within the</p> <p>22 Hospital Products Division that we haven't</p> |
| <p style="text-align: right;">Page 263</p> <p>1 A. The meeting that legal called?</p> <p>2 Q. Yes.</p> <p>3 A. No, I do not remember that that -- that</p> <p>4 that had anything to do with the intent of the</p> <p>5 meetings that were held.</p> <p>6 Q. What else do you remember about the</p> <p>7 meetings?</p> <p>8 A. That's about it.</p> <p>9 Q. Okay. Did you have any input in the</p> <p>10 content of the meetings?</p> <p>11 A. No.</p> <p>12 Q. And to your knowledge, were these</p> <p>13 meetings held Abbott-wide or just within the</p> <p>14 Hospital Products Division?</p> <p>15 A. All I knew about was the Hospital</p> <p>16 Products Division.</p> <p>17 Q. Okay. And other than -- is it Pajal</p> <p>18 Sacharia, did you say?</p> <p>19 A. Tajal Vakharia.</p> <p>20 Q. Vakharia, I'm sorry. Can you spell</p> <p>21 that, please?</p> <p>22 A. Her first name was T A J A L, and her</p> | <p style="text-align: right;">Page 265</p> <p>1 discussed here today?</p> <p>2 A. None that I can remember except when we</p> <p>3 initially implemented all of our operating</p> <p>4 procedures within Contract Marketing, we had</p> <p>5 training sessions for everybody -- for everybody</p> <p>6 -- for everybody within the department.</p> <p>7 Q. Okay.</p> <p>8 A. And those very first meetings were</p> <p>9 after we had written the HPD policies -- I'm</p> <p>10 sorry, the Abbott policies and the HPD procedures</p> <p>11 because some of the operating procedures within</p> <p>12 Contract Marketing directly related to some of</p> <p>13 those HPD policies -- procedures, I'm sorry, HPD</p> <p>14 procedures.</p> <p>15 Q. So that's in around 2003, then, and</p> <p>16 afterwards?</p> <p>17 A. Yes, the spring of 2003.</p> <p>18 Q. And would these -- the new folks coming</p> <p>19 in, would they see the "Safeguarding Trust" DVD</p> <p>20 or VHS tape?</p> <p>21 A. Yes.</p> <p>22 Q. Is that the training that you're</p> |

67 (Pages 262 to 265)

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| <p style="text-align: right;">Page 266</p> <p>1 talking about, the review of that "Safeguarding 2 Trust" material? 3 A. Well, they had to do that. But in 4 addition to that, they had to do training on the 5 operating procedures that we implemented within 6 Contract Marketing. 7 Q. Okay. 8 A. So they attended training sessions, and 9 then we had a short quiz that they had to take. 10 Q. Do you recall any other conversations 11 that you've had during your tenure within HPD 12 concerning HPD's compliance with state or federal 13 Medicaid or Medicare laws that we haven't 14 discussed here today? 15 A. No, I don't. 16 Q. Did you ever have any interaction with 17 Mike Tutell? 18 A. That's a name from the past. Was he at 19 Ross Laboratories? 20 Q. Yes. 21 A. Then I met him once and talked to him 22 once.</p> | <p style="text-align: right;">Page 268</p> <p>1 Products Division. 2 MS. CITERA: And I would just caution 3 you not to reveal discussions with counsel. 4 BY THE WITNESS: 5 A. I think over the years, as Abbott 6 employees, there's been -- you know, there were 7 discussions about what happened with Ross. I 8 don't remember anything specific or anybody I 9 specifically had a conversation with. But I'm 10 sure that as an Abbott employee, we had -- you 11 know, people would talk about it. I just don't 12 remember any of those conversations or who I had 13 them with. 14 Q. Do you recall whether there were any 15 discussions about the need to verify within the 16 Hospital Products Division that some of the 17 problems that Ross had were not problems that 18 also existed in the Hospital Products Division? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. I don't recall -- I don't recall having 22 any of those conversations.</p> |
| <p style="text-align: right;">Page 267</p> <p>1 Q. Okay. As part of its consignment 2 arrangement, did Abbott's Home Infusion division 3 also consign Ross products and pumps? 4 A. Yes, they did. 5 Q. Did they also consign Lupron? 6 A. I don't recall whether we did or we 7 didn't do Lupron. 8 Q. Okay. That might have come after your 9 time in Home Infusion? 10 MS. CITERA: Objection to form. 11 BY THE WITNESS: 12 A. Okay. I just -- I just don't remember. 13 Q. Okay. But it's possible? 14 MS. CITERA: Objection to form. 15 BY THE WITNESS: 16 A. Yes, it is possible. 17 Q. Okay. Other than what we've discussed 18 here today, do you recall any other discussions 19 that you've had concerning the Ross CIA? 20 A. With whom? 21 Q. With anybody within the Hospital 22 Products Division or outside of the Hospital</p> | <p style="text-align: right;">Page 269</p> <p>1 Q. Do you recall -- Did you ever at any 2 time have any -- make any consideration of 3 whether you should disclose to any state or 4 federal official the practices and procedures 5 within the Home Infusion unit? Did you ever 6 consider those, reporting those? 7 MS. CITERA: Objection to the form. 8 Also the same caution regarding discussions with 9 counsel. 10 BY THE WITNESS: 11 A. Again, as those contracts were written, 12 we worked with our legal counsel to prepare those 13 and to develop them. So anything that came up 14 would probably have happened within those -- 15 within those discussions. 16 Q. Okay. So it's possible that you may 17 have discussed -- had discussions about the need 18 to report to state or federal officials, but it 19 would have come up in the context of discussions 20 with counsel? 21 MS. CITERA: Objection to the form. 22 BY THE WITNESS:</p> |

68 (Pages 266 to 269)

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| Page 270 | Page 272 |
|---|--|
| <p>1 A. Again, I never had any of those</p> <p>2 conversations when we were negotiating those home</p> <p>3 infusion agreements. What I meant was the people</p> <p>4 who were writing those agreements worked with</p> <p>5 counsel to create those, to develop and create</p> <p>6 those agreements.</p> <p>7 Q. Okay. My question is actually a little</p> <p>8 bit different.</p> <p>9 At any time including after you watched</p> <p>10 the "Safeguarding" -- First, let me ask you this:</p> <p>11 Did you watch the "Safeguarding Trust" program?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. At any time, including after</p> <p>14 Abbott entered into the CIA and you watched the</p> <p>15 "Safeguarding Trust" program, did you ever have</p> <p>16 any thoughts or consideration of reporting the</p> <p>17 conduct within the Home Infusion unit to any</p> <p>18 state or federal official?</p> <p>19 MS. CITERA: Objection, form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Well, by 2003, the Home Infusion</p> <p>22 program -- the Home Infusion was gone, and I had</p> | <p>1 During your entire tenure within the Hospital</p> <p>2 Products Division, did you -- what types of</p> <p>3 documents did you create?</p> <p>4 MS. CITERA: Objection to form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I'm not sure what you mean by the</p> <p>7 question.</p> <p>8 Q. Sure. Let me rephrase it differently.</p> <p>9 Throughout your work at the hospital --</p> <p>10 with the Hospital Products Division, whether it</p> <p>11 was in Home Infusion, Alternate Site, or within</p> <p>12 Contract Marketing, did you generate more than a</p> <p>13 couple of banker's boxes full of documents?</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I have no idea.</p> <p>17 Q. Well, is it fair to say that you signed</p> <p>18 a lot of letters or worked on a lot of reports?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And prior to 2002, is that a</p> <p>21 fair statement?</p> <p>22 A. Yes, I guess.</p> |
| Page 271 | Page 273 |
| <p>1 been out of it for so long that it was never --</p> <p>2 it never occurred to me as I was watching</p> <p>3 "Safeguarding Trust" that that was something I</p> <p>4 should -- to think about.</p> <p>5 Q. Okay. So the answer is no?</p> <p>6 A. The answer is no.</p> <p>7 MS. ST. PETER-GRIFFITH: Okay. I think</p> <p>8 I'm almost ready to pass the witness. But what</p> <p>9 I'd like to do now is take a break, confer with</p> <p>10 my counsel, identify my cleanup questions, and in</p> <p>11 some -- now is a good time to take a break.</p> <p>12 MS. CITERA: Sure.</p> <p>13 THE VIDEOGRAPHER: We are off the</p> <p>14 record at 3:31 p.m.</p> <p>15 (A short break was had.)</p> <p>16 THE VIDEOGRAPHER: We are back on the</p> <p>17 record at 3:42 p.m.</p> <p>18 BY MS. ST. PETER-GRIFFITH:</p> <p>19 Q. Ms. Leone, I just have a few follow-up</p> <p>20 questions for you.</p> <p>21 A. Okay.</p> <p>22 Q. The first pertains to documents.</p> | <p>1 Q. What types of reports would you work on</p> <p>2 when you were in the Alt Site Products Division?</p> <p>3 MS. CITERA: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Well, I worked on contracts with our</p> <p>6 customers. There were spreadsheets doing pricing</p> <p>7 analyses. I can't even think of other things</p> <p>8 that I would have worked on.</p> <p>9 Q. Well, did you write letters to</p> <p>10 customers?</p> <p>11 A. I think I probably did write some</p> <p>12 letters to customers.</p> <p>13 Q. Did you write memos, internal memos?</p> <p>14 A. Yes, I wrote internal memos.</p> <p>15 Q. Did you write significant events</p> <p>16 reports?</p> <p>17 A. Yes, we did significant events on a</p> <p>18 monthly basis.</p> <p>19 Q. Okay. Any other type -- Did you always</p> <p>20 do your significant events reports?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> |

69 (Pages 270 to 273)

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| <p style="text-align: right;">Page 274</p> <p>1 A. I'm pretty sure I did them all every 2 month. 3 Q. Okay. There were required -- were they 4 required -- were they a requirement for your 5 position? 6 A. My boss wanted a significant events 7 report from me and everybody who was his direct 8 report on a monthly basis identifying our 9 activities during the previous month. 10 Q. Okay. Did that include the sales 11 force? 12 A. The sales force had different kinds of 13 forms that they filled out. 14 Q. I'm sorry, what -- 15 A. But, again, it was on a monthly basis. 16 Q. Okay. What kind of forms did the sales 17 force; put out -- have to put out on a monthly 18 basis? 19 A. They did a document identifying all of 20 the people -- all of the customers that they had 21 had activities with during the month, people that 22 were working on contracts with, what the products</p> | <p style="text-align: right;">Page 276</p> <p>1 Home Infusion business unit, did you generate 2 letters to clients? 3 A. I did letters to clients. I did -- We 4 did a monthly report for our case management 5 identifying all the case management that we had - 6 - had done for the month. I did -- Every time we 7 negotiated a price, we had a worksheet that we 8 completed that was put into the patient file for 9 that patient identifying what their pricing would 10 be for that -- for that therapy that they were 11 going to be on. I developed and created this 12 case manager training manual. I think we 13 mentioned that earlier this morning. I think 14 there were some presentations. And probably all 15 the way through in every position I've had, I've 16 done PowerPoint presentations on various topics. 17 When I was a reimbursement specialist, 18 I completed those 1500 claim forms and any other 19 kind of medical -- you know, forms that needed to 20 be completed for -- for billing those customers 21 or billing -- yeah, billing on behalf of those 22 patients, so --</p> |
| <p style="text-align: right;">Page 275</p> <p>1 were that were going to be on those contracts, 2 kind of identifying all of their activities 3 during the month. 4 Q. Okay. And were they required to -- was 5 the sales force within Alt Site required to 6 maintain files on each of their clients? 7 A. I don't know how the sales force 8 maintained and kept track of their activities 9 with each of their customers. 10 Q. Was that a -- something that was left 11 to each individual member of the sales force? 12 A. I don't know whether it was left to the 13 sales force or whether it was based on direction 14 from theirs -- from their divisional manager. 15 Q. Okay. When you were in -- Well, what 16 other types of documents would you work on or 17 generate when you were in Alternate Site? 18 MS. CITERA: Objection to the form. 19 BY THE WITNESS: 20 A. I think you remembered more than I do, 21 but I can't think of anything else. 22 Q. Okay. What about when you were in the</p> | <p style="text-align: right;">Page 277</p> <p>1 Q. Okay. When you were in the Alternate 2 Site, what manuals did you use? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. I can't remember any manuals other than 6 these that we just -- 7 Q. Located? 8 A. Yes. 9 Q. Okay. Ms. Leone, when you received a 10 litigation hold memo, would you retain your 11 documents pursuant to those memos? 12 A. Yes. 13 Q. Would you provide them to the paralegal 14 who requested them? 15 A. Yes. 16 Q. Would you update the requests -- When 17 you received updated requests, would you provide 18 your documents responsive to the request? 19 A. Yes. 20 Q. Do you have any knowledge or reason or 21 understanding as to why Abbott to date may not 22 have produced all of your documents?</p> |

70 (Pages 274 to 277)

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| <p style="text-align: right;">Page 278</p> <p>1 MS. CITERA: Objection to form. 2 BY THE WITNESS: 3 A. I don't know what has and hasn't been 4 produced. 5 Q. Okay. Ms. Leone, at any time during 6 your tenure as an employee at HPD, did you ever 7 consider reporting Abbott's Hospital Products 8 Division spreads or the differences between the 9 contract prices and the catalog prices or 10 published AWP's to any state or federal Medicaid 11 official? 12 MS. CITERA: Objection to the form. I 13 also caution you not to reveal any discussions 14 with counsel. 15 BY THE WITNESS: 16 A. I do not recall ever doing that. 17 Q. Do you ever recall considering doing 18 that? 19 MS. CITERA: Same objections. 20 BY THE WITNESS: 21 A. No, I do not recall ever considering 22 doing that.</p> | <p style="text-align: right;">Page 280</p> <p>1 Marketing internship where basically the NAMs, or 2 national account managers, within Alternate Site 3 were asked to perform a fictitious RFP response 4 or a bid response? 5 A. Yes. 6 MS. CITERA: Objection to form. 7 BY MR. ANDERSON: 8 Q. And you were the manager in Contract 9 Marketing who kind of set up this training 10 exercise for the NAMs, correct? 11 A. Yes, I was. 12 Q. And what was the basic purpose of the 13 training exercise? 14 A. To help the national accounts managers 15 understand the things that could come up and what 16 they needed to bring to contract -- what they 17 needed to bring to their Contract Marketing 18 analysts to help them put together pricing and 19 proposals for those customers. 20 Q. To better facilitate the communications 21 between the NAMs who were out in the field 22 dealing with customers and interfacing with</p> |
| <p style="text-align: right;">Page 279</p> <p>1 Q. Why not? 2 MS. CITERA: Objection to form. 3 BY THE WITNESS: 4 A. Again, it wasn't our business practice 5 to sell against the spread or to -- to do 6 anything with AWP; so I never considered that we 7 needed to do any reporting based on AWP. 8 Q. Okay. Subject to being recalled once 9 Abbott produces additional documents that may 10 pertain to you, Ms. Leone, at this time, the 11 United States passes the witness to relator's 12 counsel. Thank you for your time, ma'am. 13 A. You're welcome. 14 MR. ANDERSON: Good afternoon, Ms. 15 Leone. I'll try to move quickly. I have some 16 questions for you about the documents you 17 produced today, but I'm going to go with some 18 other questions given where we just left off. 19 20 EXAMINATION 21 BY MR. ANDERSON: 22 Q. Do you recall setting up a Contract</p> | <p style="text-align: right;">Page 281</p> <p>1 customers and the Contract Marketing personnel in 2 Chicago who are helping the NAMs fill out the bid 3 proposals or responses to bids? 4 A. Yes. Correct. 5 Q. Okay. And is it true that the name of 6 this fictional -- or fictitious company, pardon 7 me -- was called CLAD? 8 A. Uh-huh. Yes, it was. It was CLAD. 9 Q. Which is like the initials of Cindy, 10 Dave, and whoever else were the Contract 11 Marketing analysts, correct? 12 A. Cindy, Lynn, Angie, and Dave. 13 Q. Right. 14 (Deposition Exhibit Leone 018 15 marked as requested.) 16 BY MR. ANDERSON: 17 Q. If you could, take a look at what's 18 been marked as Exhibit 18. And I realize 16 and 19 17 have already marked. Those are the documents 20 you produced today, and we'll get to those in a 21 second. But take a look at what's marked Exhibit 22 18.</p> |

71 (Pages 278 to 281)

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| <p style="text-align: right;">Page 282</p> <p>1 If you could, ma'am, just flip through 2 the document and confirm for me that this appears 3 to be the documentation that pertains to the 4 Contract Marketing training exercise that you 5 oversaw? 6 A. Yes. 7 Q. Okay. And now directing your attention 8 specifically to the first page, you copied Pete 9 Baker, Scott Glover, and Mike Novak, correct? 10 A. Correct. 11 Q. And were you copying those gentlemen 12 because they were supervisors of the NAMs? 13 A. Yes. I mean -- yes, essentially. 14 Q. Right. They were in the upper chain of 15 command above the NAMs, correct? 16 MS. CITERA: Objection to form. 17 BY THE WITNESS: 18 A. Well, the national accounts managers 19 reported directly to Pete. Scott was our 20 national sales manager for the sales reps, not 21 the national accounts managers. And Mike Novak 22 was the marketing manager. So in case they had</p> | <p style="text-align: right;">Page 284</p> <p>1 purchasing manager at the vendor, correct? 2 A. Correct. 3 Q. And you met with each of the NAMs for 4 Abbott HPD Alternate Site, and you explained the 5 business of this fictitious company? 6 A. Correct. 7 Q. And some of the information that you 8 provided in this vendor meeting is listed on Page 9 42 of Exhibit 18, correct? 10 A. Correct. 11 Q. And looking at Bullet 6, you provided 12 information about computer systems within the 13 organization for reimbursement, pharmacy, 14 inventory management, et cetera. Did I read that 15 correctly? 16 A. Correct. 17 Q. What type of information did you share 18 with the NAMs about reimbursement? 19 A. I don't remember that they -- that -- I 20 don't remember what we did as far as 21 reimbursement was concerned. 22 Q. Is it true that in your experience at</p> |
| <p style="text-align: right;">Page 283</p> <p>1 to contact any of those people as they put this 2 together, we wanted them to be aware of what we 3 were doing and what was being proposed, you know, 4 what they would have to do if this was a true 5 RFP. 6 Q. I see. Okay. And focusing your 7 attention now on the page within Exhibit 18 8 that's part of the CLAD training exercise, 9 specifically Bates number Harling 42, you see 10 that page titled "CLAD Proposal/Vendor Meeting"? 11 A. Yes. 12 Q. And what was the basic purpose behind 13 the vendor meeting? 14 A. It was kind of -- what the plan was is 15 we gave them this fictitious company with this 16 information regarding who the company was and 17 what they were doing. And the vendor meeting was 18 then those individuals meeting with me as the 19 vendor and asking questions for the proposal so 20 that it would help them then complete their 21 response. 22 Q. And so you were role playing as the</p> | <p style="text-align: right;">Page 285</p> <p>1 Abbott, particularly in the Contract Marketing 2 department, that customers would include 3 reimbursement information in bid -- requests for 4 bids or requests for proposals? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. You know, it's been so long, I don't 8 remember. 9 Q. Do you remember that typically in 10 requests for bids or requests for proposals that 11 came from companies such as GPOs or other 12 customers of Abbott to Contract Marketing that 13 they requested AWP information? 14 MS. CITERA: Objection to form. 15 BY THE WITNESS: 16 A. Yes. And we talked about that last 17 summer, like MHA and Geri-Med and -- 18 Q. Right. 19 A. -- I can't remember who else, but yes. 20 Q. Do you recall that those same types of 21 providers had computer systems that included AWP 22 information and other reimbursement-related</p> |

72 (Pages 282 to 285)

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| <p style="text-align: right;">Page 286</p> <p>1 information?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I don't know whether their computer</p> <p>5 systems had it. I don't know what their computer</p> <p>6 systems had. I know what they asked us to put on</p> <p>7 their -- and made it a condition of completing</p> <p>8 those bids was to include the AWP. But I don't</p> <p>9 know what their systems did.</p> <p>10 Q. Do you think that this Bullet 6 has to</p> <p>11 do with them having computer systems that assists</p> <p>12 them in filing reimbursement claims and includes</p> <p>13 reimbursement information?</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I don't recall what I was thinking</p> <p>17 about when we did this with computer systems for</p> <p>18 reimbursement. I don't recall what I -- what I</p> <p>19 was thinking about.</p> <p>20 Q. Do you have any general recollection</p> <p>21 outside of the training exercise, but just</p> <p>22 generally an awareness that customers of Abbott's</p> | <p style="text-align: right;">Page 288</p> <p>1 No. 4.</p> <p>2 (A short break was had.)</p> <p>3 THE VIDEOGRAPHER: We are back on the</p> <p>4 record at 4:02 p.m. with the start of Tape No. 5.</p> <p>5 BY MR. ANDERSON:</p> <p>6 Q. Back on these computer systems that</p> <p>7 assist providers in filing reimbursement claims,</p> <p>8 did Abbott compete with this other company that</p> <p>9 had software that assisted Coram and other</p> <p>10 providers in filing reimbursement?</p> <p>11 MS. CITERA: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I don't recall.</p> <p>14 Q. Why did you have reason to preview that</p> <p>15 software?</p> <p>16 A. This was when I was still in Home</p> <p>17 Infusion Services, and we were looking at</p> <p>18 possibly moving away from CHIP and using</p> <p>19 something else. And so we looked at this one</p> <p>20 system and decided to stay with CHIP at that</p> <p>21 time.</p> <p>22 Q. Related to this computer system issue,</p> |
| <p style="text-align: right;">Page 287</p> <p>1 had computer systems related to reimbursement?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I know that there was one company that</p> <p>5 had reimbursement software, I don't remember who</p> <p>6 it was, for companies like a Coram or a Lincare</p> <p>7 to help them create their invoices on a therapy-</p> <p>8 by-therapy basis because we previewed it at one</p> <p>9 time when I was Home Infusion Services. But that</p> <p>10 -- that's my limited knowledge on that.</p> <p>11 Q. And was that computer software or</p> <p>12 system that assisted providers in reimbursements</p> <p>13 akin to Abbott's CHIP system?</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. As I recall, it was.</p> <p>17 Q. And would you consider -- I apologize,</p> <p>18 but we've got to switch the tape. We've only got</p> <p>19 a minute left.</p> <p>20 A. Okay.</p> <p>21 THE VIDEOGRAPHER: We are off the</p> <p>22 record at 4:00 o'clock p.m. with the end of Tape</p> | <p style="text-align: right;">Page 289</p> <p>1 in some recent production, I've seen reference to</p> <p>2 a system called the System 50 back in the, like,</p> <p>3 early '90s at Home Infusion. Was it, like, a</p> <p>4 predecessor to CHIP?</p> <p>5 A. Yeah. It was one of those big main-</p> <p>6 frame computers. It was probably the size of a</p> <p>7 room, and it was called the 50.</p> <p>8 Q. And was the 50 a computer system that</p> <p>9 assisted Abbott in filing reimbursement claims?</p> <p>10 A. Yes.</p> <p>11 Q. And, in turn, it also assisted Abbott</p> <p>12 in filing reimbursement claims on behalf of or in</p> <p>13 connection with Home Infusion partners, correct?</p> <p>14 A. Yeah. It was part of CHIP.</p> <p>15 Q. Oh, it was part of CHIP?</p> <p>16 A. Yeah, it was part of CHIP. It was an</p> <p>17 early part of CHIP.</p> <p>18 Q. I see. I just hadn't never seen</p> <p>19 reference to it until recently.</p> <p>20 A. Yeah.</p> <p>21 Q. Now, if you could flip to Page 45 of</p> <p>22 the training materials that are marked as Exhibit</p> |

73 (Pages 286 to 289)

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| <p style="text-align: right;">Page 290</p> <p>1 18, is this basically like a checklist of the</p> <p>2 items that the NAMs were supposed to include in</p> <p>3 the responses to bid?</p> <p>4 A. Yes. These were the things that we</p> <p>5 were saying that they had to include with the</p> <p>6 proposal.</p> <p>7 Q. And if they included those, then they</p> <p>8 got credit, so to speak? And ultimately if they</p> <p>9 had the high score, they were going to win a</p> <p>10 prize?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And so this is an example of</p> <p>13 Chris Finkel's score sheet, so to speak. And</p> <p>14 she's scored one point for providing these</p> <p>15 various pieces of information, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And do you notice in the kind of upper</p> <p>18 middle part of the page, there's a listing there,</p> <p>19 AWP/Medi-Span program?</p> <p>20 A. Yes.</p> <p>21 Q. What type of AWP information was</p> <p>22 supposed to be included in the proposal?</p> | <p style="text-align: right;">Page 292</p> <p>1 Q. Something that was, like, more than a</p> <p>2 listing of all the AWP's?</p> <p>3 A. I don't know. I don't know what we</p> <p>4 were asking for, so I can't answer the question.</p> <p>5 Q. Did Abbott ever provide access to its</p> <p>6 Medi-Span subscription to providers?</p> <p>7 MS. CITERA: Objection to form.</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. I'll back up and ask a foundational</p> <p>10 question. Abbott had a subscription to Medi-</p> <p>11 Span, right?</p> <p>12 A. Correct.</p> <p>13 Q. So basically what that meant is every</p> <p>14 month, Abbott would get new pricing information</p> <p>15 from Medi-Span, including AWP's, on all the drugs</p> <p>16 that Medi-Span published AWP's for, correct?</p> <p>17 A. Correct.</p> <p>18 Q. That included Abbott's own drugs,</p> <p>19 obviously?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did Abbott ever share those</p> <p>22 Medi-Span subscriptions or access to the Medi-</p> |
| <p style="text-align: right;">Page 291</p> <p>1 A. I don't know. I guess we'd have to go</p> <p>2 back because I'm sure it said something in the</p> <p>3 original RFP about what they needed to provide.</p> <p>4 Q. Okay. Where in the materials is the</p> <p>5 original RFP?</p> <p>6 A. I don't know, so I don't know why I put</p> <p>7 that in there.</p> <p>8 Q. Would you agree that it was kind of</p> <p>9 standard procedure for AWP information to be</p> <p>10 included in responses for proposal or bids made</p> <p>11 by Abbott to customers?</p> <p>12 MS. CITERA: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I don't know what we were calling that</p> <p>15 AWP/Medi-Span program, so I'm not sure what we</p> <p>16 were asking for there. So I can't answer the</p> <p>17 question.</p> <p>18 Q. Well, you know what AWP is?</p> <p>19 A. Yeah, but I don't know what a Medi-Span</p> <p>20 program would have been. So it leads me to</p> <p>21 believe we weren't asking for AWP, we were asking</p> <p>22 for something else.</p> | <p style="text-align: right;">Page 293</p> <p>1 Span pricing data with providers?</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. To providers? What do you mean?</p> <p>5 Q. Customers.</p> <p>6 A. Not that I recall.</p> <p>7 Q. Except when Abbott provided the AWP's in</p> <p>8 a spreadsheet or whatever attached to a bid,</p> <p>9 correct?</p> <p>10 MS. CITERA: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. The only time that I ever used the</p> <p>13 Medi-Span was when I was in Home Infusion</p> <p>14 Services, and we were using it for the managed</p> <p>15 care contracting with the third-party payors.</p> <p>16 Alternate Site Product Sales did not have a</p> <p>17 subscription to Medi-Span, and they didn't get a</p> <p>18 copy of it. This was strictly from my Home</p> <p>19 Infusion days I had a subscription to Medi-Span.</p> <p>20 Q. Well, setting aside the subscription to</p> <p>21 Medi-Span for a moment, you'll agree, and I think</p> <p>22 you've already testified, that Abbott Contract</p> |

74 (Pages 290 to 293)

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| <p style="text-align: right;">Page 294</p> <p>1 Marketing did share AWP's with customers in the 2 context of the bid or response for proposal 3 context? 4 MS. CITERA: Objection to form. 5 BY THE WITNESS: 6 A. If it was a requirement for completing 7 the RFP, then yes, we did. And the majority of 8 the prices came out of Red Book and not Medi- 9 Span. 10 Q. All right. And isn't it true that 11 typically the bids did require AWP information to 12 be included; therefore, typically Abbott Contract 13 Marketing did include AWP's in its responses to 14 the bids? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. If we -- if it was a requirement for 18 completing the bids, then we provided AWP. 19 Q. I know. I understand that contingency. 20 And I'm saying that isn't it true that typically 21 the customers requested AWP; therefore, typically 22 AWP was included by Abbott?</p> | <p style="text-align: right;">Page 296</p> <p>1 Q. Right. 2 A. Yes. 3 Q. So you would defer to the memory of the 4 people reporting to you, such as Debbie Longley, 5 about whether or not AWP was typically included, 6 correct? 7 MS. CITERA: Objection to form. 8 BY THE WITNESS: 9 A. Yes. 10 Q. Okay. Now, would you also agree that 11 in this training exercise called CLAD, Abbott 12 Contract Marketing was indicating to the NAMs 13 that AWP should be included in their proposal? 14 MS. CITERA: Objection, form. 15 BY THE WITNESS: 16 A. No, I will not agree to that. And 17 because it says "Medi-Span program," I don't 18 recall what was -- what we were asking for here; 19 so I'm not going to agree we were asking them to 20 complete AWP for this proposal because I don't 21 recall what that Medi-Span program meant. And 22 that's a key to what we were asking for, but I</p> |
| <p style="text-align: right;">Page 295</p> <p>1 MS. CITERA: Objection to form. 2 BY THE WITNESS: 3 A. I only remember a handful of customers 4 making that a requirement for completing the bid. 5 And when that happened, those are the ones we 6 did. I do not remember it being something we had 7 to do on a regular basis. 8 Q. Do you know that personnel that 9 reported to you have testified under oath in this 10 case that they did typically include AWP in the 11 bids? 12 MS. CITERA: Objection to form. 13 BY THE WITNESS: 14 A. No, I didn't know that. 15 Q. Is the reason that you may not know 16 about how many or the regularity with which AWP 17 was included because you were a manager who 18 didn't fill out the bids herself but instead 19 delegated that to others? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. That would probably be my --</p> | <p style="text-align: right;">Page 297</p> <p>1 don't know what it was that we were asking. 2 Q. Can you think of any way that the 3 phrase "Medi-Span program" somehow changes the 4 request for AWP? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. That's my point. I don't know what I 8 meant by that. And that leads me to believe that 9 we weren't asking for AWP, that we were asking 10 for something else. So I'm not going to agree. 11 Q. Okay. Well, I don't want to argue with 12 you. But, I mean, you'll agree at a minimum that 13 the actual CLAD proposal documentation before you 14 includes AWP? 15 A. But it includes "AWP/Medi-Span 16 program," and I don't know what we meant by that. 17 I can't remember. 18 Q. Okay. All right. Will you agree at 19 the minimum that Abbott sharing AWP information 20 with customers in the context of a bid or an RFP 21 response would be a violation of Abbott's current 22 policies?</p> |

75 (Pages 294 to 297)

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| <p style="text-align: right;">Page 298</p> <p>1 MS. CITERA: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I would say -- I don't know that any of</p> <p>4 our policies specifically state that, and I don't</p> <p>5 know that we respond for Alternate Site Product</p> <p>6 Sales with AWP in anything today. So I don't</p> <p>7 know that that is an issue any longer.</p> <p>8 Q. Well, I understand that. But I'm</p> <p>9 saying, will you agree that if AWP information</p> <p>10 were to be shared by Abbott with a customer in</p> <p>11 the context of a bid or RFP response or for that</p> <p>12 matter in any other context, that that sharing of</p> <p>13 AWP would be a violation of Abbott's policies</p> <p>14 today?</p> <p>15 MS. CITERA: Objection to the form.</p> <p>16 Also she doesn't work for Abbott today.</p> <p>17 BY THE WITNESS:</p> <p>18 A. That's right.</p> <p>19 Q. Okay. I can address that. Abbott and</p> <p>20 Hospira have the same policy prohibiting the</p> <p>21 sharing of AWP, correct?</p> <p>22 MS. CITERA: Objection to form.</p> | <p style="text-align: right;">Page 300</p> <p>1 A. Probably.</p> <p>2 Q. Okay. Let's look at those. I've got</p> <p>3 what's marked previously as Fiske 523, now also</p> <p>4 marked as Leone Exhibit 19.</p> <p>5 (Deposition Exhibit Leone 019</p> <p>6 marked as requested.)</p> <p>7 BY THE WITNESS:</p> <p>8 A. Is this the TAP version? I mean, is</p> <p>9 this the HPD version because each one of the</p> <p>10 divisions had --</p> <p>11 Q. I believe this is the HPD version. I</p> <p>12 know what you're talking about, Ms. Leone.</p> <p>13 A. Yeah.</p> <p>14 Q. Look at what's been marked -- well,</p> <p>15 I'll tell you, just look at Page 11 of 15. And</p> <p>16 it looks like this is the version with the path,</p> <p>17 the so-called HPD path. Do you see that?</p> <p>18 A. Yeah. Okay.</p> <p>19 Q. Does that lead you to believe that this</p> <p>20 is the HPD version?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Can you confirm that this looks</p> |
| <p style="text-align: right;">Page 299</p> <p>1 BY THE WITNESS:</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Today, isn't it true that if AWP</p> <p>4 information were to be shared by Abbott or</p> <p>5 Hospira to a customer in the context of a bid</p> <p>6 response or in any other context, that would be a</p> <p>7 violation of Abbott and Hospira's policies?</p> <p>8 MS. CITERA: You can answer as to</p> <p>9 Abbott. You cannot answer as to Hospira,</p> <p>10 although I'm not sure how she can answer to</p> <p>11 Abbott because she doesn't work there anymore.</p> <p>12 BY THE WITNESS:</p> <p>13 A. Yeah, I don't know what the answer to</p> <p>14 that question is; so I can't answer them.</p> <p>15 Q. Well, do you think looking at the</p> <p>16 storyboards themselves might refresh your memory</p> <p>17 about what constitutes a violation?</p> <p>18 A. Storyboards for the learn program?</p> <p>19 Q. The "Safeguarding Trust."</p> <p>20 A. Okay.</p> <p>21 Q. Do you think you would possibly have</p> <p>22 your memory refreshed if you looked at those?</p> | <p style="text-align: right;">Page 301</p> <p>1 like the storyboards that were utilized to train</p> <p>2 Abbott employees on the policy concerning</p> <p>3 reimbursement in late 2003?</p> <p>4 A. Yes.</p> <p>5 Q. And if I understand your prior</p> <p>6 testimony correctly, prior to the institution of</p> <p>7 these storyboards and this training, there had</p> <p>8 been no written prohibition regarding</p> <p>9 reimbursement or AWP discussion, correct?</p> <p>10 A. Correct.</p> <p>11 MS. CITERA: Objection, form.</p> <p>12 BY MR. ANDERSON:</p> <p>13 Q. Now, if you could, looking at Page 6 of</p> <p>14 15, you see a storyboard there that's subtitled,</p> <p>15 "What reimbursement actions are not allowed"?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And the very first one reads,</p> <p>18 "Do not discuss the spread verbally or in writing</p> <p>19 or verbally quote reimbursement rates." Did I</p> <p>20 read that correctly?</p> <p>21 A. Correct.</p> <p>22 Q. Then continuing on, "Do not provide</p> |

76 (Pages 298 to 301)

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| <p style="text-align: right;">Page 302</p> <p>1 Average Wholesale Price (AWP) information to non-</p> <p>2 managed care customers." Did I read that</p> <p>3 correctly?</p> <p>4 A. Correct.</p> <p>5 Q. Given that statement, is your memory</p> <p>6 refreshed that sharing AWP information with</p> <p>7 customers by Abbott personnel is a violation of</p> <p>8 Abbott's current policies?</p> <p>9 MS. CITERA: Same objections as before.</p> <p>10 BY THE WITNESS:</p> <p>11 A. It was their policies in December of</p> <p>12 2003, so ...</p> <p>13 Q. So at least as of that time, it became</p> <p>14 a violation of their policies to share AWP,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Was sharing AWP information with</p> <p>18 customers a violation of any Abbott policy prior</p> <p>19 to December of 2003?</p> <p>20 MS. CITERA: Objection, form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. When I was in Alternate Site Product</p> | <p style="text-align: right;">Page 304</p> <p>1 requirement of the bid.</p> <p>2 MR. ANDERSON: Objection,</p> <p>3 nonresponsive.</p> <p>4 BY MR. ANDERSON:</p> <p>5 Q. When you instructed personnel not to,</p> <p>6 quote, discuss AWP, did you instruct them not to</p> <p>7 share AWP information with customers in the</p> <p>8 context of a bid response or a response to a</p> <p>9 request for proposal?</p> <p>10 A. What I told my team was the only time</p> <p>11 to include AWP was if it was a requirement of</p> <p>12 completing the bid. Otherwise, if it was an</p> <p>13 optional field, not to complete it.</p> <p>14 Q. So in the instances where a customer of</p> <p>15 Abbott's required that AWP information be</p> <p>16 submitted, Abbott did provide AWP and doing so</p> <p>17 was not considered a violation of any Abbott</p> <p>18 policy, correct?</p> <p>19 MS. CITERA: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I don't -- I don't -- I did not know if</p> <p>22 there was a policy in place at that time that</p> |
| <p style="text-align: right;">Page 303</p> <p>1 Sales we told our sales force not to discuss or</p> <p>2 talk about AWP with their customers. As I</p> <p>3 previously said, I don't recall that we had it</p> <p>4 documented in a procedure or policy anywhere.</p> <p>5 Q. When you told these personnel not to</p> <p>6 discuss AWP, did you also tell them not to</p> <p>7 include AWP in the context of a bid response or</p> <p>8 response to a request for proposal?</p> <p>9 A. Well -- And, again, my understanding</p> <p>10 had always been that we only provided AWP in our</p> <p>11 Contract Marketing department when it was</p> <p>12 something that was specifically requested as a</p> <p>13 condition of completing the bid proposal and if</p> <p>14 we did not complete -- include AWP, then we would</p> <p>15 not be able to -- we would not be considered.</p> <p>16 The other piece of this is Debbie</p> <p>17 Longley left Alternate Site Product Sales 19- in</p> <p>18 late 1996 -- I'm sorry, late -- sometime in 1997.</p> <p>19 And she may have provided AWP prior to my being</p> <p>20 in the department. But after I came into the</p> <p>21 department, the rule of thumb was that we would</p> <p>22 not include AWP unless it was a specific</p> | <p style="text-align: right;">Page 305</p> <p>1 said not to.</p> <p>2 Q. Accordingly, providing AWP was not a</p> <p>3 violation, correct?</p> <p>4 MS. CITERA: Objection to form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. It was not part of our standard</p> <p>7 business practices to discuss AWP, so the only</p> <p>8 time it happened was if it was a requirement for</p> <p>9 completing a bid.</p> <p>10 Q. When you say "standard practices," what</p> <p>11 do you refer to?</p> <p>12 A. It wasn't part of how we were trying to</p> <p>13 sell our products. We were trying to sell our</p> <p>14 products based on the depth and breadth of the</p> <p>15 product line, what buying products from Abbott --</p> <p>16 the whole idea of the services, the service and</p> <p>17 products that -- quality that Abbott could bring</p> <p>18 to the table and not based on the spread of the</p> <p>19 AWP.</p> <p>20 Q. So the standard practices were, so to</p> <p>21 speak, the aspirations of Abbott in selling</p> <p>22 products, correct?</p> |

77 (Pages 302 to 305)

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| <p style="text-align: right;">Page 306</p> <p>1 A. Correct.</p> <p>2 MS. CITERA: Objection to form.</p> <p>3 BY MR. ANDERSON:</p> <p>4 Q. But despite those aspirations, there</p> <p>5 were other practices that also were utilized such</p> <p>6 as the sharing of AWP when it was required to be</p> <p>7 part of the bid?</p> <p>8 MS. CITERA: Objection, form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Yes.</p> <p>11 Q. Today, would Hospira or Abbott provide</p> <p>12 AWP information in a bid response if it was a</p> <p>13 required field?</p> <p>14 MS. CITERA: Objection to the form, and</p> <p>15 I'm going to instruct you not to answer as to</p> <p>16 Hospira.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I don't know what Abbott does today,</p> <p>19 and I'm not going to answer for Hospira.</p> <p>20 Q. All right. Back in 2003 when you were</p> <p>21 at Abbott and these policies first came into</p> <p>22 existence, would it have been a violation for</p> | <p style="text-align: right;">Page 308</p> <p>1 MS. CITERA: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I thought this had to do with the Ross</p> <p>4 Laboratories.</p> <p>5 Q. Okay. The Ross criminal settlement?</p> <p>6 MS. CITERA: Objection.</p> <p>7 BY MR. ANDERSON:</p> <p>8 Q. I'll rephrase for purposes of the</p> <p>9 record.</p> <p>10 One of the underlying reasons why</p> <p>11 Abbott instituted these reimbursement policies</p> <p>12 that are reflected in Leone Exhibit 19 in</p> <p>13 December of 2003 was the Ross corporate integrity</p> <p>14 agreement that was connected with the Ross</p> <p>15 criminal plea, correct?</p> <p>16 MS. CITERA: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. As I understand it, yes.</p> <p>19 Q. Thank you.</p> <p>20 Now, you mentioned earlier in your</p> <p>21 testimony that Contract Marketing personnel from</p> <p>22 time to time were involved in creating proposal</p> |
| <p style="text-align: right;">Page 307</p> <p>1 Abbott to share AWP information in the context of</p> <p>2 a bid response even if the customer demanded it</p> <p>3 in the bid?</p> <p>4 MS. CITERA: Objection to form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Based on this, yes.</p> <p>7 Q. So these policies were a change in the</p> <p>8 governance of Abbott's business practices,</p> <p>9 correct?</p> <p>10 MS. CITERA: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. It was -- It was documenting our</p> <p>13 standard business practices.</p> <p>14 Q. And it was doing more than that, wasn't</p> <p>15 it, ma'am?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Thank you. And, again, one of</p> <p>18 the roots for the implementation of these</p> <p>19 December 2003 policies on reimbursement was a</p> <p>20 corporate integrity agreement that had been</p> <p>21 triggered by the TAP criminal settlement,</p> <p>22 correct?</p> | <p style="text-align: right;">Page 309</p> <p>1 spreadsheets; is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. And were those also sometimes known as</p> <p>4 proposal analyses?</p> <p>5 A. Yes.</p> <p>6 Q. And there was actually a standard</p> <p>7 template titled "Proposal Analyses," correct?</p> <p>8 MS. CITERA: Objection to the form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I don't know that we had a standard</p> <p>11 template for it. I know that we -- we put the</p> <p>12 same information in time after time, so ...</p> <p>13 Q. And typically that information included</p> <p>14 AWP up until 2003, correct?</p> <p>15 A. No, it did not.</p> <p>16 Q. Are you aware that that information --</p> <p>17 that -- Strike that.</p> <p>18 Are you aware that many proposal</p> <p>19 analyses included AWP information?</p> <p>20 MS. CITERA: Objection to the form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. No, I was not aware that AWP was</p> |

78 (Pages 306 to 309)

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| Page 310 | Page 312 |
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| <p>1 included in any of those analyses.</p> <p>2 Q. Do you know where Abbott keeps all of</p> <p>3 its past proposal analyses, whether</p> <p>4 electronically on a computer somewhere or in</p> <p>5 paper files?</p> <p>6 MS. CITERA: Objection to the form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Electronically, there's a file on a</p> <p>9 shared drive that Contract Marketing had. In the</p> <p>10 files, it's in the individual customer files.</p> <p>11 There's -- in most cases, there's copies of those</p> <p>12 analyses.</p> <p>13 Q. And are those kept historically, for</p> <p>14 instance, year after year when a bid is made to</p> <p>15 GPO such as MHA or PBI or whoever it may be such</p> <p>16 that there would be a '94 proposal analyses all</p> <p>17 the way running through 2007?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. It's what we talked about earlier this</p> <p>21 morning, that the files would be kept based on</p> <p>22 the term of the agreement. And so if it was</p> | <p>1 A. Yeah, some of those that I saw that had</p> <p>2 been created prior to my time had AWP in them. I</p> <p>3 can't say that all of them did, but some of them</p> <p>4 did.</p> <p>5 Q. Right. I'm not asking about all. I</p> <p>6 said most.</p> <p>7 Did you find that in '97, most of the</p> <p>8 proposal analyses included AWP information?</p> <p>9 MS. CITERA: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I don't recall seeing AWP in that -- in</p> <p>12 anything other than the MHA's and the GeriMed's</p> <p>13 and IVMed's and RxMed's.</p> <p>14 Q. And PBI's?</p> <p>15 A. AWP was not in the PBI analysis that we</p> <p>16 did in our analysis. I do not recall seeing AWP</p> <p>17 in our analysis.</p> <p>18 Q. Do you recall seeing AWP in the Olsten</p> <p>19 analysis? I'll rephrase to be more specific.</p> <p>20 Do you recall seeing AWP information in</p> <p>21 the proposal analyses that Abbott created</p> <p>22 concerning Olsten?</p> |
| Page 311 | Page 313 |
| <p>1 something that expired while we were still part</p> <p>2 of Abbott, then it would be in the Abbott</p> <p>3 corporate records now. If it's something that</p> <p>4 crossed over, then there might -- then there's</p> <p>5 probably copies of it someplace in Hospira.</p> <p>6 Q. Did typically the people reporting to</p> <p>7 you in Contract Marketing create those proposal</p> <p>8 analyses?</p> <p>9 A. Yes, they did.</p> <p>10 Q. Did you normally review those proposal</p> <p>11 analyses?</p> <p>12 A. Yes.</p> <p>13 Q. And you took on that role as manager</p> <p>14 within Contract Marketing in '98?</p> <p>15 A. '96.</p> <p>16 Q. '96?</p> <p>17 A. Yeah, December of 1996.</p> <p>18 Q. And did you find that in 1996 that the</p> <p>19 proposal analyses typically included AWP</p> <p>20 information?</p> <p>21 MS. CITERA: Objection to form.</p> <p>22 BY THE WITNESS:</p> | <p>1 MS. CITERA: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I don't recall the -- any proposals</p> <p>4 that we did for Olsten.</p> <p>5 Q. Do you recall that AWP information was</p> <p>6 included in the proposal analyses created by</p> <p>7 Abbott for Chartwell?</p> <p>8 MS. CITERA: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. The Chartwell proposal that you showed</p> <p>11 me that was an exhibit in my last deposition was</p> <p>12 done prior to my -- to my being in Contract</p> <p>13 Marketing.</p> <p>14 Q. So did you take affirmative steps to</p> <p>15 try and prevent the inclusion of AWP in proposal</p> <p>16 analyses?</p> <p>17 A. That was one of my directions to the</p> <p>18 people on my team.</p> <p>19 Q. Did you make that determination on your</p> <p>20 own, or did one of your superiors ask that you</p> <p>21 make that direction?</p> <p>22 A. I don't remember what precipitated it.</p> |

79 (Pages 310 to 313)

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| Page 314 | Page 316 |
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| <p>1 Q. Why do you feel like AWP needed to be 2 deleted from the standard proposal analyses? 3 A. Because it wasn't a factor in how we 4 were going to do the pricing and what the pricing 5 was that we were offering our customers. 6 Q. Do you recall that the proposal 7 analyses that you had inherited, so to speak, 8 included AWP spread calculations? 9 MS. CITERA: Objection, form. 10 BY THE WITNESS: 11 A. And, again, going back to the Chartwell 12 or Coram or whichever one it was that we looked 13 at before, that was in that. That was in that 14 analysis. 15 Q. Yeah. And who was your predecessor as 16 manager of Contract Marketing? 17 A. There was Michael Rativan for a short 18 period of time and Steve Kipperman prior to that. 19 Q. Do you feel like Kipperman probably 20 oversaw the department when these proposal 21 analyses were created and typically included AWP 22 spread analysis?</p> | <p>1 marked in this litigation as Exhibit 1192. 2 A. Oh. I do recall this. 3 Q. And you're listed as an author on the 4 first page, correct? 5 A. Yes, yes. 6 Q. And then to speed things along, Ms. 7 Leone, I've got questions for you about Page 7, 8 Bates-labeled CMOAL 232499. 9 A. Okay. 10 Q. And actually, to get a context, see the 11 preceding page. It reads, quote: Account 12 assessment strategies, Contract Marketing 13 guidelines for a proposal. Did I read that 14 correctly? 15 A. Yes. 16 Q. And this was information that you 17 probably had a hand in providing, correct? 18 A. Correct. 19 Q. And these are as listed on this sheet, 20 quote, universal questions to ask, correct? 21 A. Correct. 22 Q. And these were universal questions that</p> |
| Page 315 | Page 317 |
| <p>1 MS. CITERA: Objection to form. 2 BY THE WITNESS: 3 A. Since Michael was there for such a 4 short period of time, I would -- and Steve was 5 there for several years, probably Steve was 6 involved in those. 7 Q. Was Kipperman punished in any way or 8 reprimanded or otherwise instructed that the way 9 he had previously had proposal analyses created 10 was improper? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. I don't know. 14 Q. Did you assist Trudi Burchieri, the 15 manager for sales training, in creating a sales 16 training manual? 17 A. I don't remember. 18 (Deposition Exhibit Leone 020 19 marked as requested.) 20 BY MR. ANDERSON: 21 Q. If you could, Ms. Leone, flip through 22 what's been marked as Leone Exhibit 20, also</p> | <p>1 you were instructing the salespersons to ask 2 their customers out in the field, correct? 3 A. Correct. 4 Q. And now looking at the page that I've 5 initially referenced, Page 7, do you see in the 6 middle of the page, one of the standard questions 7 is about reimbursement mix, percentage Medicare, 8 Medicaid, Medi-Cal, HMO contracts, private. Did 9 I read that had correctly? 10 A. Uh-huh. 11 Q. Why did you suggest that Abbott 12 salespersons should ask those types of questions? 13 A. This document was created overall based 14 on helping our sales reps go in and have 15 conversations with their customers and understand 16 the right questions to ask so that they could 17 understand their customers' business. And as 18 part of that, we thought that understanding what 19 their reimbursement mix by payor type would be, 20 would be helpful for them in understanding who 21 their customer was and overall how they were 22 doing their business.</p> |

80 (Pages 314 to 317)

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| <p style="text-align: right;">Page 318</p> <p>1 Q. And in what way would the reimbursement 2 knowledge that a salesperson would gain about a 3 customer pharmacy, for instance, help Abbott in 4 selling its drugs? 5 A. Well, for instance, if you've got -- if 6 you've got a large Medicare population, is your 7 therapy mix more tied to TPN and enteral 8 nutrition? Do you have a very young patient 9 population so you're not going to have Medicare 10 patients; you're going to have private insurance 11 patients. So those were the kinds of questions. 12 That was the direction that we felt would help 13 the sales reps understand who their customers 14 were. 15 Q. Would it also help the sales reps in 16 understanding how the providers are paid when 17 they dispense products? 18 A. I don't know that -- I don't know that 19 knowing that would help them understanding the 20 reimbursement -- I mean understanding how the 21 payors paid. 22 Q. Well, if you knew that a given provider</p> | <p style="text-align: right;">Page 320</p> <p>1 is less than what I could get if I was -- if I 2 was submitting claims to an insurance company." 3 Q. And would Abbott consider the 4 provider's reimbursement in Abbott's pricing of 5 the drugs? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. No, Abbott wouldn't consider that. But 9 they would at least understand where that 10 objection was coming from, and so they would be 11 better able to deal with positioning the pricing 12 that we were offering those customers better. 13 Q. How could they better position it? 14 A. As the full -- Again, going back to the 15 full product line, "Here's all the products we 16 can provide to you. Here's all of the different 17 -- different things that we can give you that we 18 can offer you as part of this proposal." But not 19 -- I mean, that's how they would use it. That's 20 how they would position that. 21 Q. Would highlighting higher relative 22 reimbursement on an Abbott product versus a</p> |
| <p style="text-align: right;">Page 319</p> <p>1 had a large Medicaid business, for instance, 2 would that assist Abbott in knowing more about 3 how that pharmacy is actually paid when it 4 dispenses a drug? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. I think it would have helped more in 8 understanding what they were looking for from a 9 pricing perspective because Medicaid -- Medicaid 10 reimbursement was significantly less than paying 11 -- say, having an insurance company. So they 12 might have more push-backs from their customers 13 for lower prices based on that. So that was the 14 intent of understanding that piece of the -- of 15 what was happening. 16 Q. You're saying the pharmacies may have 17 some push-back to the Abbott salespersons? 18 A. No, no. I'm saying that there could be 19 -- When we put the proposals together with the 20 pricing that we were offering them, they may say, 21 "You know, I've got a big Medicaid population. I 22 need lower prices because Medicaid reimbursement</p> | <p style="text-align: right;">Page 321</p> <p>1 competitor also be an advantage? 2 MS. CITERA: Objection to form. 3 BY THE WITNESS: 4 A. But again we're going back to we told 5 our sales force that they were supposed to be 6 selling based on the product line, the portfolio 7 of products, what the Abbott name brought to 8 them. That's how they were supposed to be 9 selling our products, the fact that you've got 10 all these products that we can provide to you. 11 Q. Do you see or do you recall any 12 directive in the sales training manual to not 13 discuss AWP? 14 A. No, I don't see it. I mean, I'd have 15 to go through the entire document; but I don't 16 see anything in here that references that. 17 Q. And do you recall that those types of 18 prohibitions about reimbursement discussions or 19 AWP discussions were included in any written 20 training manuals? 21 MS. CITERA: Objection to form. 22 BY THE WITNESS:</p> |

81 (Pages 318 to 321)

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| <p style="text-align: right;">Page 322</p> <p>1 A. I don't believe we ever put anything in 2 writing relating to that. 3 Q. Was there a reason why Abbott did not 4 put any of its informal positions prior to 2003 5 in writing? 6 MS. CITERA: Objection to form. 7 BY THE WITNESS: 8 A. I don't remember. 9 Q. You don't remember if there was a 10 reason for everything being oral? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. Yeah, I don't remember if there was a 14 reason. I don't remember why we didn't put -- 15 why it wasn't in writing. 16 Q. Would you agree that it would be easier 17 for employees of Abbott such as salespersons to 18 get away with talking about AWP if there wasn't a 19 written policy against it? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. That was never the intent.</p> | <p style="text-align: right;">Page 324</p> <p>1 Q. Well, the GPOs are ultimately the 2 decision-makers for lots of pharmacies, right? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. Uh-huh. 6 Q. So sharing -- 7 A. Yes. I'm sorry. 8 Q. So sharing the AWP's with the GPOs at a 9 corporate level would be covering many, many, 10 many pharmacy members of that GPO, correct? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. But, again, under my direction, we were 14 only supposed to be including AWP if it was a 15 requirement to complete the bid and not under any 16 other circumstances. 17 Q. Right. And when those AWP's were 18 shared, no one at Abbott was disciplined, 19 correct? 20 MS. CITERA: Objection to the form. 21 BY THE WITNESS: 22 A. I recall when we submitted the GeriMed</p> |
| <p style="text-align: right;">Page 323</p> <p>1 Q. Can you recall any instance where any 2 Abbott employee was ever reprimanded in any way 3 for discussing AWP with a customer? 4 A. I don't know of any employees who 5 discussed AWP with customers, so I can't say 6 whether anybody was reprimanded if management 7 became aware of that. 8 Q. Are you aware of any situation where 9 any Abbott employee was ever reprimanded for 10 sharing AWP's with customers? 11 A. I'm not aware of that ever happening. 12 Q. But you are aware that that type of AWP 13 sharing occurred, correct? 14 MS. CITERA: Objection to form. 15 BY THE WITNESS: 16 A. No, I was not aware of that. 17 Q. Well, you knew it was in the bids? 18 A. Again, when those bids went directly to 19 those -- to those GPOs. On an individual basis, 20 on an individual basis with our sales reps, my 21 understanding and my belief was that they were 22 not sharing AWP.</p> | <p style="text-align: right;">Page 325</p> <p>1 -- when we received the GeriMed and the MHA bids, 2 we specifically called the customers and said we 3 don't want to include AWP. We had a national 4 accounts manager. And we were told if we did not 5 include that information, then we would -- then 6 our bid would be rejected. And so we felt that 7 we were required to do that in order to be able 8 to submit those bids to those customers. We were 9 providing it as a courtesy and for no other 10 reason. 11 Q. Well -- 12 A. And, again, we had to actually look up 13 all those AWP's. 14 Q. Out of the Red Book? 15 A. Yes. 16 Q. And you all knew that those AWP's were 17 being published by Red Book based in part on the 18 information that Abbott was reporting to Red 19 Book, correct? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. Abbott reported a price that we knew</p> |

82 (Pages 322 to 325)

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| <p style="text-align: right;">Page 326</p> <p>1 was used by the compendia to calculate the AWP. 2 Q. Right. When -- When you mentioned that 3 Abbott informed MHA and GeriMed that they didn't 4 want to provide AWP and MHA and GeriMed informed 5 Abbott that their bid would be considered, 6 couldn't Abbott have just chosen not to bid on 7 that business? 8 MS. CITERA: Objection to form. 9 BY THE WITNESS: 10 A. Again, we were not bidding on just two 11 or three products. We were bidding on the entire 12 product line, all of the products we had 13 available. And that included products that 14 didn't have AWP. So we wanted -- we wanted the 15 opportunity to -- to sell products to their 16 members. We wanted that ability to do that. 17 Q. But Abbott could have chosen simply not 18 to make the sale, correct? 19 MS. CITERA: Objection to form. 20 BY THE WITNESS: 21 A. I don't know -- I don't know that 22 anybody ever considered that.</p> | <p style="text-align: right;">Page 328</p> <p>1 products that would not have been awarded. By 2 having the award for those products with those 3 people who were members of that GPO, it gave our 4 sales reps entry into meeting with those 5 customers to sell other products like pumps and - 6 - especially pumps and other products that we had 7 available to us. 8 So it was -- and, again, those members 9 didn't -- those members didn't have to buy those 10 products from Abbott. Even after GeriMed awarded 11 it to us, there was no requirement that they had 12 to buy from us. 13 Q. That's right. But Abbott had the pole 14 position, right? 15 MS. CITERA: Objection to form. 16 BY MR. ANDERSON: 17 Q. They had the preferred status? 18 MS. CITERA: Objection to form. 19 BY THE WITNESS: 20 A. I don't know how they had the preferred 21 status. 22 Q. Well, that's what the whole premise of</p> |
| <p style="text-align: right;">Page 327</p> <p>1 Q. Foregoing the opportunity to make a 2 sale to GeriMed wasn't even considered? 3 MS. CITERA: Objection to form. 4 BY THE WITNESS: 5 A. I don't know that that discussion ever 6 took place. 7 Q. Well, whether the discussion took place 8 or not, it certainly was an option, correct? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. Yes, it was an option. 12 Q. I mean, Abbott doesn't have to sell its 13 drugs to GeriMed, does it? 14 MS. CITERA: Objection to form. 15 BY THE WITNESS: 16 A. No, they didn't have to their product - 17 - and they weren't selling them to GeriMed. They 18 were selling them to the members of GeriMed. 19 Q. I realize that. Abbott doesn't have to 20 do that, do they? 21 A. And we wanted the opportunity to build 22 those relationships with those members for</p> | <p style="text-align: right;">Page 329</p> <p>1 the bid award was? Once GeriMed selects Abbott, 2 then Abbott is the preferred generic provider for 3 the selected drugs, correct? 4 MS. CITERA: Objection to form. 5 BY THE WITNESS: 6 A. Correct. 7 Q. Right. 8 A. But they awarded many products to us, 9 not just the four or five that we've been talking 10 about. 11 Q. Sure. 12 A. So it was again back to the entire 13 portfolio of products and the fact that Abbott 14 had a significant product line of products that 15 were available to their membership. 16 Q. Right. And Abbott had AWP's on lots of 17 drugs, most of its product line, not just the 18 four or five that are listed in the United States 19 lawsuit, correct? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. Correct.</p> |

83 (Pages 326 to 329)

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| <p style="text-align: right;">Page 330</p> <p>1 Q. And when Abbott chooses to share AWP 2 with GeriMed or other customers and participate 3 in the bid process, that means ultimately more 4 sales for Abbott, right? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. Correct. 8 Q. And more dollars to Abbott? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. Correct. 12 Q. And Abbott doesn't have to sell those 13 drugs to those GeriMed members or whoever it may 14 be in order to stay in business, does it? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. Well, again, it's a business. They 18 want to grow their business. They want to expand 19 the people who are buying those products. And 20 one of the ways to do it is to respond to a 21 proposal for a GPO, like a GeriMed that has a 22 significant membership, making those products</p> | <p style="text-align: right;">Page 332</p> <p>1 MS. CITERA: Yeah. 2 (Deposition Exhibit Leone 016 and 3 Exhibit Leone 017 marked as requested.) 4 BY MR. ANDERSON: 5 Q. 16 is the 2000 version, 17 is the 2001 6 version. I understand you pulled these from your 7 files; is that correct? 8 A. Last night. 9 Q. Last night. What caused you to look 10 for those last night? 11 A. In my meeting with Ms. Citera yesterday 12 -- 13 MS. CITERA: I'm going to just caution 14 you, you're not to reveal any discussions. 15 BY THE WITNESS: 16 A. Right. I said -- I asked her if she 17 had copies of the -- of these handbooks. And so 18 she asked me to -- and she said -- you know, she 19 didn't know whether she did or not. I said, 20 "Well, I have copies of these handbooks in my 21 office," and I gave them to her. 22 Q. Prior to last night, had you ever</p> |
| <p style="text-align: right;">Page 331</p> <p>1 available to that membership. I mean, Abbott was 2 in business to make money. 3 Q. Right. 4 A. And to grow the business and sell more 5 of their products. 6 Q. Even -- 7 A. Responding to a bid was one of the ways 8 that they tried to grow the business. 9 Q. That's right. 10 Even if it involves sharing AWP 11 information which you're uncomfortable doing? 12 MS. CITERA: Objection to form. 13 BY MR. ANDERSON: 14 Q. Is that right? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. I guess it's right. 18 Q. All right. Now let's look at these two 19 documents that you produced today. I've marked 20 them as Exhibit 16 and 17. 21 MR. ANDERSON: Toni, I think you've got 22 them.</p> | <p style="text-align: right;">Page 333</p> <p>1 looked for these handbooks before? 2 A. No. I just moved to a new office; and 3 as I was cleaning stuff out, I found these. I 4 didn't even know that these still existed. 5 Q. When did you move offices? 6 A. A couple months ago. And I didn't even 7 think about these in relationship to this until 8 yesterday. 9 Q. Are you the only person who has these 10 handbooks? 11 A. I don't know. 12 MS. CITERA: Objection to the form. 13 BY MR. ANDERSON: 14 Q. Well, was this a standard handbook that 15 was handed out? 16 A. This was a handbook that we handed out 17 to the Alternate Site sales force. The first 18 year we did it was 2000, and we did an update in 19 2001 when I was still in Contract Marketing. And 20 my understanding was that it was not maintained 21 after that. It was a guide for the sales reps in 22 how to -- we were allowing the sales force to</p> |

84 (Pages 330 to 333)

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| <p style="text-align: right;">Page 334</p> <p>1 have some contracts that they could negotiate on 2 their own without having to come to Contract 3 Marketing and create -- and having an analyst 4 have to work on it. And so these handbooks were 5 created to give them kind of the rules of the 6 road in how to do that type of contracting. 7 Q. So long story short, everybody in Alt 8 Site sales got one? 9 A. Yes. 10 Q. Do you have any understanding of why 11 these weren't produced to the plaintiffs in this 12 case until today? 13 MS. CITERA: Objection to form. 14 BY THE WITNESS: 15 A. No. 16 Q. How would you compare this handbook to 17 what's known as the Basic Operating Procedures 18 Manual for Contract Marketing? 19 A. This was for the sales force. And that 20 Basic Operating Procedures for Contract Marketing 21 was I believe the one we discussed earlier this 22 morning, that was really for the Hospital</p> | <p style="text-align: right;">Page 336</p> <p>1 Q. Right. But the fundamental truth is 2 that Alternate Site Contract Marketing was part 3 of HPD Contract Marketing? 4 A. Not then. 5 Q. Not then? 6 A. No. We were not a part of -- we were 7 not a part of HPD Contract Marketing then. We 8 reported directly into the general manager of 9 Alternate Site Product Sales. There was only 10 dotted-line responsibility to Contract Marketing. 11 Q. Well, back in -- when you say "then," I 12 mean back in certainly 2000? 13 A. No. We came back under the umbrella of 14 -- of Contract Marketing, I don't remember 15 whether it was late 2000 or early 2001. 16 (Deposition Exhibit Leone 021 17 marked as requested.) 18 BY MR. ANDERSON: 19 Q. All right. I've got another exhibit 20 that bears on this issue. If you could, take a 21 look at this org chart marked as Leone Exhibit 22 21.</p> |
| <p style="text-align: right;">Page 335</p> <p>1 Business Sector more than -- that was really a 2 Hospital document as opposed to Alternate Site. 3 And then this was really a document for the sales 4 force to use. 5 Q. So that Basic Operating Procedures 6 Manual, the big, like, 400-page document, that 7 pertained to HPD Contract Marketing as a whole, 8 which included both Alternate Site Contract 9 Marketing and Hospital Business Sector Contract 10 Marketing, correct? 11 MS. CITERA: Objection to form. 12 BY THE WITNESS: 13 A. We were never included in its creation 14 or the -- and we were never told that what was in 15 that document was something that we in Alternate 16 Site needed to use for our -- for our purposes. 17 As I said this morning, we looked at it 18 at one point to see if there was a way to modify 19 it and update it and use it in Alternate Site and 20 again decided not to, to make it more -- what we 21 were talking about was making it more compatible 22 with the Alternate Site business.</p> | <p style="text-align: right;">Page 337</p> <p>1 A. I would not -- I did not and never 2 reported to Pat Keely. What this was was an 3 organizational chart for -- 4 Q. I understand you want to respond, and 5 I'll let you; I promise, Ms. Leone. 6 A. All right. 7 Q. But right now there's not a question 8 pending. I just asked you to look at the 9 document, okay? 10 A. I'm sorry. 11 Q. Okay. Do you agree that this appears 12 to be an org chart for Contract Marketing dated 13 HPD 1998? 14 A. No. 15 Q. Okay. What do you believe that this 16 org chart reflects? 17 A. It reflects the Contract Marketing team 18 for the implementation of the VHA/Abbott HPD 19 contract. That's what it reflects. 20 Q. Okay. 21 A. And that's different. 22 Q. Because the VHA contract impacted both</p> |

85 (Pages 334 to 337)

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| <p style="text-align: right;">Page 338</p> <p>1 hospitals as well as non-hospital customers?</p> <p>2 A. Correct.</p> <p>3 Q. And Alternate Site needed to be</p> <p>4 included?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So this org chart was a</p> <p>7 functional kind of job-specific org chart?</p> <p>8 A. Yes.</p> <p>9 Q. All right.</p> <p>10 A. In relationship to the VHA contract.</p> <p>11 Q. How many other instances were there</p> <p>12 job-related organizational reporting structures</p> <p>13 between HPD and Alternate Site?</p> <p>14 MS. CITERA: Objection to the form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I don't know.</p> <p>17 Q. There were others, but you don't know</p> <p>18 how many?</p> <p>19 A. I don't know if there were others, and</p> <p>20 I don't know how many there were. If there were</p> <p>21 -- I don't know if there were any others; and if</p> <p>22 there were any others, I don't know how many</p> | <p style="text-align: right;">Page 340</p> <p>1 specifically -- And just by way of reference,</p> <p>2 this is the 2000 Contract Marketing Handbook. Do</p> <p>3 you see it?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Go to Bates No. 377132, please.</p> <p>6 It's also labeled A-6.</p> <p>7 A. Uh-huh.</p> <p>8 Q. Do you see that titled, "One-Time Price</p> <p>9 Parameters"?</p> <p>10 A. Uh-huh.</p> <p>11 Q. You're familiar with that term?</p> <p>12 A. It's been a long time. I truly haven't</p> <p>13 looked at this in six or seven years.</p> <p>14 Q. Have you some familiarity with the term</p> <p>15 "accommodation price"?</p> <p>16 A. Do you mind if I read through this</p> <p>17 quickly?</p> <p>18 Q. No, I don't mind at all.</p> <p>19 MS. CITERA: While she's doing that, I</p> <p>20 just want to note for the record that I think</p> <p>21 this was -- the prefix for the Bates label is</p> <p>22 wrong. It should probably be ABT-DOJ. It's ABJ-</p> |
| <p style="text-align: right;">Page 339</p> <p>1 there were and who was on them and what they were</p> <p>2 in relationship to.</p> <p>3 Q. You do know, though, that there were --</p> <p>4 there were multiple group purchasing</p> <p>5 organizations who did business with Abbott who</p> <p>6 also had members that were hospital and non-</p> <p>7 hospital Alternate Site type customers, correct?</p> <p>8 A. Correct.</p> <p>9 Q. All right. Do you believe that in each</p> <p>10 one of those situations, there would be direct</p> <p>11 reporting between HBS Contract Marketing and</p> <p>12 Alternate Site Contract Marketing?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. This was a very unique contract. And</p> <p>16 because of that, they put something like this</p> <p>17 together. This was -- this was unique unto the</p> <p>18 relationship Abbott created with VHA when that</p> <p>19 contract was signed in 1998. I do not recall any</p> <p>20 other contract or any other GPO where anything</p> <p>21 like this ever happened.</p> <p>22 Q. Okay. Let's now jump to Exhibit 16,</p> | <p style="text-align: right;">Page 341</p> <p>1 DOJ. Same thing with 17.</p> <p>2 MR. ANDERSON: Yeah.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Okay.</p> <p>5 Q. Does this -- Now that you've read this</p> <p>6 page of the Contract Marketing Handbook about</p> <p>7 one-time price parameters, does that refresh your</p> <p>8 memory?</p> <p>9 A. Yes.</p> <p>10 Q. I note in the middle of the document it</p> <p>11 says, "There are a set of prices on file,</p> <p>12 accommodation prices." Did I read that opening</p> <p>13 phrase --</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Where were these accommodation</p> <p>16 prices kept?</p> <p>17 A. They were actually in our Contract</p> <p>18 Administration System.</p> <p>19 Q. They're in CAS?</p> <p>20 A. Yes.</p> <p>21 Q. What field? I'll be more specific.</p> <p>22 What field of data within CAS handles</p> |

86 (Pages 338 to 341)

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| <p style="text-align: right;">Page 342</p> <p>1 the accommodation prices?</p> <p>2 A. There was a profile set up in CAS with</p> <p>3 these prices.</p> <p>4 Q. A specific contract number that was the</p> <p>5 accommodation profile?</p> <p>6 A. Yes, yes.</p> <p>7 Q. Okay. So are accommodation prices</p> <p>8 contract prices?</p> <p>9 A. No.</p> <p>10 Q. But they were given a profile number,</p> <p>11 nonetheless?</p> <p>12 A. Yes.</p> <p>13 Q. Kind of akin to Rx-Link?</p> <p>14 A. Yes.</p> <p>15 Q. Kind of akin to a field-generated</p> <p>16 price?</p> <p>17 A. Much closer to Rx-Link.</p> <p>18 Q. Okay. Would you consider Rx-Link and</p> <p>19 accommodation prices to be noncontract price?</p> <p>20 MS. CITERA: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I would not consider the Rx-Link prices</p> | <p style="text-align: right;">Page 344</p> <p>1 lower enough so that we could make sure that</p> <p>2 those charge-backs would come through and we</p> <p>3 would be able to identify those customers and</p> <p>4 then know who they were.</p> <p>5 That's really scary.</p> <p>6 Q. Why were the accommodation prices set</p> <p>7 slightly below the Rx-Link customer prices?</p> <p>8 A. So that we would make sure that</p> <p>9 Alternate Site would get sales credit so that</p> <p>10 those customers could then be tied to that</p> <p>11 profile and Alternate Site would get sales credit</p> <p>12 instead of the hospital side.</p> <p>13 And I believe this -- this was killed</p> <p>14 in 2002.</p> <p>15 Q. Why?</p> <p>16 A. Because -- I don't remember why. I was</p> <p>17 out of the department then; but I know that it</p> <p>18 was killed, and I don't remember the reason why.</p> <p>19 Q. Can -- Strike that.</p> <p>20 Looking at the very first paragraph of</p> <p>21 this page, it says, "Objective: In an effort to</p> <p>22 streamline the amount of time spent on pricing</p> |
| <p style="text-align: right;">Page 343</p> <p>1 to be noncontract prices because the reason they</p> <p>2 were created was so that we could get the charge-</p> <p>3 backs and know who the customers were. For this,</p> <p>4 I would consider this noncontract prices.</p> <p>5 Q. Why did Abbott have the accommodation</p> <p>6 prices?</p> <p>7 A. Actually, this was because customers --</p> <p>8 Alternate Site customers placing orders for --</p> <p>9 who did not have a contract with the wholesaler,</p> <p>10 if they -- if those wholesaler charge-backs came</p> <p>11 through, the Hospital Business Sector got sales</p> <p>12 credit for those sales instead of Alternate Site</p> <p>13 getting sales credit. And Alternate Site wanted</p> <p>14 sales credit for those sales.</p> <p>15 So this would have been comparable to</p> <p>16 an Rx-Link for Alt Site. And what happened is,</p> <p>17 when a customer placed an order, we would tie</p> <p>18 them to that profile in the future so that</p> <p>19 Alternate Site could get sales credit for it.</p> <p>20 And, you know, it says that they were pretty high</p> <p>21 -- they were really a price that was just a</p> <p>22 little bit lower than the Rx-Link prices, just</p> | <p style="text-align: right;">Page 345</p> <p>1 orders that are routed for manual pricing on a</p> <p>2 daily basis, the following guidelines have been</p> <p>3 implemented effective July 1, '98," correct?</p> <p>4 A. Correct.</p> <p>5 Q. And that's the accommodation prices</p> <p>6 a/k/a one-time price parameters, correct?</p> <p>7 A. Uh-huh.</p> <p>8 Q. If I understand manual pricing</p> <p>9 correctly, that's, in essence, a price that comes</p> <p>10 in at list, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And once that occurs, a flag is</p> <p>13 triggered and customer service evaluates it to</p> <p>14 make sure it's not a mistake, correct?</p> <p>15 MS. CITERA: Object to the form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Customer -- the system automatically</p> <p>18 sends them. Customer care doesn't have to touch</p> <p>19 them.</p> <p>20 Q. That's right. That's what I mean --</p> <p>21 A. Yeah.</p> <p>22 Q. -- when I said "flag." I'm sorry.</p> |

87 (Pages 342 to 345)

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| <p style="text-align: right;">Page 346</p> <p>1 A. Customer care doesn't touch them. The</p> <p>2 system automatically sends them.</p> <p>3 Q. Right. Send the -- It puts a hold on</p> <p>4 it and sends it so Abbott personnel can evaluate</p> <p>5 why there's been a list price billing at all,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And basically what occurred upon the</p> <p>9 institution of accommodation prices was a</p> <p>10 mechanism by which those list price billings</p> <p>11 would be overridden with an accommodation price,</p> <p>12 correct?</p> <p>13 MS. CITERA: Objection to the form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Unfortunately this isn't very well</p> <p>16 written. But this first -- this process, number</p> <p>17 one, is really for indirect sales, not direct</p> <p>18 sales. And unfortunately this isn't very well</p> <p>19 written. It doesn't explain it correctly and --</p> <p>20 Q. It really is akin to Rx-Link customer?</p> <p>21 A. Yes.</p> <p>22 MS. CITERA: Objection to form.</p> | <p style="text-align: right;">Page 348</p> <p>1 anything in process, we would release the order</p> <p>2 at list price and ask them to put an invoice</p> <p>3 remark on the order that said "Please contact</p> <p>4 your sales rep."</p> <p>5 Q. Right. To further --</p> <p>6 A. Right. If they're going to continue to</p> <p>7 buy those products, then they want to get them</p> <p>8 under contract.</p> <p>9 Q. Right. At prices lower than list?</p> <p>10 A. Correct. On the assumption they're</p> <p>11 going to make a commitment to buy some products</p> <p>12 from us.</p> <p>13 Q. Yes. Now, look at what's been labeled</p> <p>14 377140. And, again, this is also labeled as B-2</p> <p>15 of Exhibit 16, the 2000 Contract Marketing</p> <p>16 Handbook.</p> <p>17 A. Yes.</p> <p>18 MS. CITERA: While she's doing that,</p> <p>19 Jarrett, what's your -- I mean, it's 5:00</p> <p>20 o'clock, five after 5:00.</p> <p>21 MR. ANDERSON: Yeah. I want to get</p> <p>22 through -- I've got a few more questions on this</p> |
| <p style="text-align: right;">Page 347</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. Okay. Was there some similar manual</p> <p>3 override parameter price in place for direct</p> <p>4 sales to pharmacies?</p> <p>5 MS. CITERA: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I believe we let direct orders, if</p> <p>8 there was nothing in process as identified in</p> <p>9 number two, go through at list price.</p> <p>10 Q. Right. But the list billing would</p> <p>11 still create a flag, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And there would still be an effort</p> <p>14 undertaken to either (A), get them on contract,</p> <p>15 or (B) -- and in turn reverse the list price</p> <p>16 billing -- or (B), then allow the list price</p> <p>17 billing to proceed?</p> <p>18 MS. CITERA: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Right. And the first circumstance</p> <p>21 would happen if there was a contract in process.</p> <p>22 And the second would happen if we couldn't find</p> | <p style="text-align: right;">Page 349</p> <p>1 document. I want to get through these documents.</p> <p>2 I've got a couple of other documents. I don't</p> <p>3 think more than about 20 minutes.</p> <p>4 MS. CITERA: Okay. I was going to say,</p> <p>5 we can go to 5:30. That's it. 5:30.</p> <p>6 MR. ANDERSON: 20 minutes, yeah, yeah.</p> <p>7 MS. CITERA: Did you have a question?</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. Are you through reviewing the page, Ms.</p> <p>10 Leone?</p> <p>11 A. Okay.</p> <p>12 Q. This is titled, "Field-Generated</p> <p>13 Contract," correct?</p> <p>14 A. Correct.</p> <p>15 Q. And you're familiar with this, aren't</p> <p>16 you?</p> <p>17 A. Yes.</p> <p>18 Q. And specifically it is a mechanism by</p> <p>19 which a customer who doesn't have a contract can</p> <p>20 get one quickly, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Because the field has authority to</p> |

88 (Pages 346 to 349)

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January 17, 2008

Chicago, IL

| Page 350 | Page 352 |
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| <p>1 offer those prices to customers without going 2 through Contract Marketing? 3 A. Correct. 4 Q. All right. And is it true that those 5 field-generated prices do not have any minimum 6 purchase requirements? 7 A. Correct. 8 Q. So the smallest pharmacy in America 9 could buy the minimum order size of any given 10 product, one package literally, and receive 11 field-generated price, correct? 12 MS. CITERA: Objection to form. 13 BY THE WITNESS: 14 A. If they signed the agreement. 15 Q. If they signed the agreement. 16 A. Signed the agreement and there's no 17 commitment tied to this agreement, but the prices 18 were also very high. They weren't at list price; 19 they were -- they were below WAC. They were 20 below the WAC prices. They were pretty high 21 prices, but they weren't list. 22 Q. So given that reference point of WAC</p> | <p>1 for the Alternate Site sales reps. And so we 2 gave them some ability to do some of these 3 contracts, but the prices in all cases were very 4 high. If there was anything that they -- that 5 they wanted to negotiate that they felt that 6 there was a lot of business that we could get, 7 then those requests had to come into Contract 8 Marketing for us to do a full analysis and for us 9 to do a full analysis and figure out, you know, 10 what would be appropriate pricing for that 11 customer based on them making a commitment to us. 12 With this agreement, there was no 13 commitment. What we did say is, if you look at - 14 - down near the bottom, it says, "If after 12 15 months, a customer is purchasing at least \$25,000 16 a year," remember \$25,000 a year for a lot of our 17 Alternate Site customers was a big -- was 18 significant dollar amount, then we would talk to 19 them about negotiating an individual contract. 20 This was really -- And we called it a bucket 21 agreement. You know, it was a bucket in CAS. So 22 -- But if the customer wanted to buy something</p> |
| Page 351 | Page 353 |
| <p>1 and knowing what I know about the WAC and list 2 prices over time, particularly before 2001, these 3 field prices were still quite a bit less than 4 list, sometimes probably half of list? 5 MS. CITERA: Objection to form. 6 BY THE WITNESS: 7 A. This contract was created in 2000, and 8 it was -- you know, and it was in 2000 when -- or 9 2001 when -- 10 Q. You brought it down? 11 A. -- we brought it down significantly. 12 Q. Yeah. 13 A. These were -- This was the first 14 offering of this field-generated contract for 15 customers. This one, this contract, this full- 16 line contract, this was the first offering for 17 it. 18 Q. But field-generated prices existed 19 prior to 2000, correct? 20 A. On the hospital side. 21 Q. Yeah. 22 A. There was nothing available for the --</p> | <p>1 from us, there was one or two products that they 2 wanted to buy from us, we didn't want to give 3 them a contract with real aggressive pricing; so 4 we offered them this, which was a little bit 5 better than list but certainly not good or -- 6 even good pricing. 7 Q. Why do you need list pricing at all if 8 field prices were available? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. Well, we still have customers who buy 12 at list. And there's still sales that -- that 13 come in at list and that gets -- that gets put 14 into our plan every year that there's going to be 15 some customers who are going to buy our products 16 at list for a variety of reasons. Their current 17 vendor may have something on back-order and they 18 have to buy from us for a time. They don't want 19 to make a commitment to us, but they want to buy 20 a certain product from us and so -- and, again, 21 and they're willing to pay list price for it. 22 And we --</p> |

89 (Pages 350 to 353)

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January 17, 2008

Chicago, IL

| Page 354 | Page 356 |
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| <p>1 Q. What's the commitment with the field 2 price, though? 3 A. With this? 4 Q. Yeah. 5 A. There is no commitment. 6 Q. Right. So what incentive does the 7 customer have to go with list when they can go 8 with field price and have no greater commitment 9 to Abbott than they otherwise would at list? 10 MS. CITERA: Objection to form. 11 BY THE WITNESS: 12 A. And there were customers who chose 13 that, and they were invoiced at list price. 14 Q. Why? 15 MS. CITERA: Objection to form. 16 BY THE WITNESS: 17 A. I don't know why. There are so many 18 customers in the Alternate Site market that our 19 sales reps have never even talked to who could 20 call in and want to order something from us that 21 our sales reps never have discussions with. 22 Q. Would it be fair to characterize those</p> | <p>1 was just pricing that was available to them to 2 use if there was a customer that they thought 3 they might have an opportunity to grow the 4 business with. This was a first step for them to 5 work with that customer to do something. 6 (Deposition Exhibit Leone 022 7 marked as requested.) 8 BY MR. ANDERSON: 9 Q. All right. Let's move quickly because 10 I want to get you out of here on time. Here is 11 Leone Exhibit 22. It appears to be a memo you 12 wrote back in June of '95. Does that appear to 13 be a memo you wrote, ma'am? 14 A. Yes, it does. 15 Q. And it's to all the reimbursement 16 specialists and all the reimbursement clerks, 17 correct? 18 A. Correct. 19 Q. And it's titled, "Therapy Infusion 20 Day/AWP Flags," correct? 21 A. Correct. 22 Q. What was an AWP flag?</p> |
| Page 355 | Page 357 |
| <p>1 list price billings as flukes? 2 MS. CITERA: Objection to the form. 3 BY THE WITNESS: 4 A. No, I don't think it's fair to 5 characterize them. There are truly customers who 6 will pay list price and -- 7 Q. But Abbott approaches them with a field 8 price by policy, correct? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. This is something that was available to 12 our sales reps if they felt that they wanted to 13 use it. 14 Q. Oh, but you're saying the sales reps 15 don't approach every customer who gets billed at 16 list? 17 A. No. 18 Q. But they're suggested -- or at least 19 encouraged to do so, correct? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. No, there was no encouragement. This</p> | <p>1 A. This was in the CHIP system for -- We 2 talked about this earlier when I talked about 3 being able to go into CHIP and have CHIP create 4 the invoice, the bill charges for -- the bill 5 charges to go to the third-party payors because 6 this was when I was doing the managed care. We 7 had made a change to the CHIP system so that we 8 could actually have the -- when we negotiated 9 contracts for home -- for individual patients 10 with a third-party payor and insurance company 11 and that third-party -- and that was based on a 12 per diem plus AWP as we talked about this 13 morning, this was a change that we made to the 14 CHIP system so we could put those prices with the 15 AWP in CHIP so the bill would come out with the 16 correct prices that we negotiated. Remember I 17 said I filled out a worksheet? Well, I passed 18 that worksheet on with the customer -- with the 19 patient file to the reimbursement specialist, and 20 then they would enter that information in CHIP. 21 So when we -- when the orders -- when we billed 22 them, it would come out and the invoice would be</p> |

90 (Pages 354 to 357)

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| <p style="text-align: right;">Page 358</p> <p>1 correct.</p> <p>2 Q. Okay. I follow what you're saying. I</p> <p>3 want to make this very specific, though.</p> <p>4 When you say the prices would be</p> <p>5 calculated, can you describe the names or types</p> <p>6 of pricing that would be calculated from AWP in</p> <p>7 the CHIP system?</p> <p>8 A. Oh --</p> <p>9 MS. CITERA: Objection, form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. No, it's not the AWP that's being</p> <p>12 calculated.</p> <p>13 Q. No, no, no, from the AWP.</p> <p>14 MS. CITERA: Objection to form.</p> <p>15 BY MR. ANDERSON:</p> <p>16 Q. I realize the AWP is not being</p> <p>17 calculated in CHIP. Let me take it from the top.</p> <p>18 We'll break it down.</p> <p>19 You under -- you've just testified that</p> <p>20 AWP was the basis for some other prices in the</p> <p>21 home infusion arena, correct?</p> <p>22 A. Correct.</p> | <p style="text-align: right;">Page 360</p> <p>1 diem.</p> <p>2 Q. Right.</p> <p>3 A. And that's what it would do, and that's</p> <p>4 what that was for.</p> <p>5 Q. In addition to calculating the per diem</p> <p>6 prices that are negotiated between Abbott and --</p> <p>7 or a provider or Abbott on behalf of a provider</p> <p>8 on the one hand and, on the other hand, the case</p> <p>9 managers for the private insurance companies, is</p> <p>10 it true the AWP's were also the foundation for the</p> <p>11 calculation of the usual and customary charges?</p> <p>12 A. Yeah. And we talked about that this</p> <p>13 morning, too.</p> <p>14 Q. I know. I just want to confirm, is</p> <p>15 that true?</p> <p>16 A. But that wouldn't have been this.</p> <p>17 Q. I know. I'm shifting gears now to the</p> <p>18 next exhibit.</p> <p>19 A. Okay.</p> <p>20 Q. When you say the 80/20 rule, by the</p> <p>21 way, in Exhibit 22, what are you talking about</p> <p>22 there?</p> |
| <p style="text-align: right;">Page 359</p> <p>1 Q. What prices in the home infusion area</p> <p>2 were calculated based off of AWP by CHIP system?</p> <p>3 MS. CITERA: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. What I just told you about. When we</p> <p>6 were doing managed care contracting and we would</p> <p>7 negotiate a per diem price, excuse me, with a</p> <p>8 case manager and that per diem price would be a</p> <p>9 per diem, whatever it was, plus the AWP for the</p> <p>10 drug that the patient was receiving --</p> <p>11 Q. Yes.</p> <p>12 A. -- what would happen is the</p> <p>13 reimbursement specialist or the clerk would go in</p> <p>14 and set up for that patient the per diem and what</p> <p>15 the AWP was based on what we put on that</p> <p>16 worksheet. They would enter that. And then when</p> <p>17 the order was put into the system for that</p> <p>18 patient, it would identify how many bags -- how</p> <p>19 many compounded bags of the drug the patient got</p> <p>20 and how many days of service that it got. So</p> <p>21 then you would then see seven -- and it would do</p> <p>22 the seven times the AWP and seven times the per</p> | <p style="text-align: right;">Page 361</p> <p>1 A. When we looked at how to -- how to set</p> <p>2 this up and make the changes in CHIP so that it</p> <p>3 could do the pricing for us, we had a lot of,</p> <p>4 "What if the request to bill the customer was</p> <p>5 done this way? What if it was requested to do</p> <p>6 that way?" And we said, you know, there were a</p> <p>7 lot of nuances and twists and there were some</p> <p>8 things that we had to go in and we still had to</p> <p>9 do the billing manually.</p> <p>10 So what we looked at was, what are we</p> <p>11 going to see the majority of the time? And that</p> <p>12 was the 80/20 rule. And so that's when we did</p> <p>13 this, and we set it up on this per diem plus AWP.</p> <p>14 And so we could set it up as a Q 24, a Q 12, a Q</p> <p>15 8, and so forth.</p> <p>16 Q. The different negotiated per diems that</p> <p>17 were founded on AWP?</p> <p>18 A. Correct.</p> <p>19 (Deposition Exhibit Leone 023</p> <p>20 marked as requested.)</p> <p>21 BY MR. ANDERSON:</p> <p>22 Q. Okay. Now, take a look, if you could,</p> |

91 (Pages 358 to 361)

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January 17, 2008

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| Page 362 | Page 364 |
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| <p>1 at Exhibit 23, which I think pertains to the use 2 of AWP in calculating usual and customary 3 charges. 4 Just for speed, Ms. Leone, I'm going to 5 be directing your attention to the fifth bullet 6 from the middle of the page. 7 A. Okay. 8 Q. You've got a good context for the 9 document now? 10 A. Yes. 11 Q. Okay. This is a memo you wrote back in 12 September '96, correct? 13 A. Correct. 14 Q. And your title is senior managed care 15 specialist, correct? 16 A. Correct. 17 Q. And in the middle of the page, you 18 reference -- you write a bullet, and I'll read 19 for the record, quote, "The AWP of the drug is 20 \$599.21 per 2.5 gram vial. Our usual and 21 customary," or U & C as you wrote it, "will be 22 \$778.98 per 2.5 gram vial." Did I read that</p> | <p>1 give us some ideas," then we would give them 2 that. If they wanted us to make changes or 3 modify it, then we did that. 4 Q. I'm sorry. 5 A. That's okay. No, that's it. 6 Q. Were there some standard formulas or 7 other calculations set up in CHIP much akin to 8 what you were describing with the per diem 9 calculations? 10 MS. CITERA: Objection to the form. 11 BY THE WITNESS: 12 A. I don't remember how we -- how we 13 calculated this. But I'm -- Again, as I said 14 before, we did something where we came up with a 15 formula that included the AWP plus a -- some 16 pharmacy, labor, and overhead. And that was it, 17 but I can't give you the exact -- 18 Q. I don't want the exact, just generally 19 there was a formula? 20 A. Yes, yes. 21 Q. We've got one minute, and we've got one 22 document. I don't know if we're going to be able</p> |
| Page 363 | Page 365 |
| <p>1 correctly? 2 A. Yes. 3 Q. How were you going about calculating 4 the U & C there? 5 A. I don't remember. 6 Q. Is it your experience that generally 7 the usual and customary charges were based upon 8 AWP's? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. The AWP was a part of the calculation 12 as well as -- you know, we looked at what costs 13 would be for pharmacy, labor, and overhead and 14 everything else that could be included in it. 15 Q. And were those usual and customary 16 formulas utilized by Abbott personnel in advising 17 or working on behalf of providers? 18 A. When we signed those agreements, you 19 know, we asked them, again, as we talked about 20 this morning, "How do you want to do your 21 pricing?" If they had something they wanted us 22 to use, we would use it. If they said, "Can you</p> | <p>1 to do it or not. 2 (Deposition Exhibit Leone 024 3 marked as requested.) 4 BY MR. ANDERSON: 5 Q. Do you realize that -- or recognize, 6 rather, that this Exhibit 24 is a memo you wrote? 7 A. Yes. And obviously when I said this 8 morning I don't recall ever doing anything on 9 Lupron -- 10 Q. Yeah. 11 A. -- I was wrong. 12 Q. Right. This appears to be a listing of 13 AWP's for Lupron, correct? 14 A. Yes. 15 Q. And you mentioned that the Lupron AWP's 16 have increased, correct? 17 A. Correct. 18 Q. And why would an increase in AWP over 19 time be important? 20 MS. CITERA: Objection to form. 21 BY THE WITNESS: 22 A. Well, again, when we were talking about</p> |

92 (Pages 362 to 365)

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| <p style="text-align: right;">Page 366</p> <p>1 the formula for these products, when we were 2 talking about the formula, the formulas that we 3 did for the pricing for the drugs was AWP plus 4 whatever that formula was that we put in there. 5 Q. Right. 6 A. And since the AWP changed, it appeared 7 that we were going to adjust the Lupron prices. 8 Q. And when you say "the Lupron prices," 9 you're talking about the Lupron per diems or, for 10 that matter, the Lupron usual and customary 11 charges, correct? 12 MS. CITERA: Objection to form. 13 BY THE WITNESS: 14 A. I don't know. I mean, there's the AWP 15 and then there's the list price. So I think the 16 list price would be what our -- what that 17 billable charge would have been for us. 18 Q. Right. Billable by the provider or by 19 Abbott on behalf of the provider to a third-party 20 payor? 21 A. Yes. 22 Q. So in some, the AWP's going up on a</p> | <p style="text-align: right;">Page 368</p> <p>1 (A short break was had.) 2 MR. ANDERSON: So let's go back on. 3 Let's go back on. Okay. Toni, I at this point 4 am willing to conclude the deposition. However, 5 there are concerns about the completeness of the 6 production, as you gathered, I'm sure from some 7 of the questioning. And I'm reserving the 8 relator's rights to recall the witness as 9 necessary to question about additional production 10 that we feel is due, and I'll at this point allow 11 my colleagues to make any comments, if they have 12 any. 13 MS. ST. PETER-GRIFFITH: The United 14 States concurs with the realtor's position and 15 similarly reserves its rights to recall this 16 witness at such time as Abbott produces 17 additional documents concerning the witness. 18 MR. SISNEROS: California joins in the 19 realtor's comments and reservation. 20 And, additionally, I believe that 21 Abbott has just produced some documents in our 22 discovery request in our case, and we need -- and</p> |
| <p style="text-align: right;">Page 367</p> <p>1 drug, in turn allowed providers to be paid more 2 by providers -- 3 MS. CITERA: Objection. 4 BY MR. ANDERSON: 5 Q. Pardon me. I've got to start over. 6 In some, the AWP increasing over time 7 enabled providers to seek reimbursement for 8 greater amounts from third-party payors? 9 MS. CITERA: Objection to form. 10 BY THE WITNESS: 11 A. Yes. But that's no different than 12 taking any other price increase over time. It's 13 just the price increase was based on the increase 14 in the AWP. It could have been the increase in 15 CPIU or something else. It was just we used AWP 16 at that point. 17 Q. At this point, we've got to go off the 18 record to change the tape or at least go off the 19 video. We may be able to talk about the 20 deposition. 21 THE VIDEOGRAPHER: We are off the 22 record at 5:23 p.m. with the end of Tape No. 5.</p> | <p style="text-align: right;">Page 369</p> <p>1 we're making a reservation based upon review of 2 those documents to make sure there haven't been 3 any additional or new documents produced. So 4 we'd like to reserve on that basis as well. 5 MS. CITERA: I mean, obviously I 6 disagree with the completeness of the production. 7 But it is what it is, so okay. 8 MS. ST. PETER-GRIFFITH: I mean, Toni, 9 let's keep this on the record, then. Do you 10 believe that the production is complete? 11 MS. CITERA: Well -- 12 MS. ST. PETER-GRIFFITH: Is it Abbott's 13 position the production is complete? 14 MS. CITERA: I'm not saying what 15 Abbott's position is. I think we have pulled 16 documents from this witness, and I don't know 17 what else there is. So I'm just making -- 18 MR. ANDERSON: That was kind of the 19 concern, Toni, in part is it does appear from her 20 testimony that she's turned over a great volume 21 of documents or at least others that she's aware 22 of have turned over a great volume of documents.</p> |

93 (Pages 366 to 369)

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Chicago, IL

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| <p style="text-align: right;">Page 370</p> <p>1 But we have not received them, and that's a 2 problem. For instance, it sounds like there's a 3 large volume of contract files that have been 4 retrieved but not produced. There's been some 5 production of contract files. 6 MS. CITERA: I was going to say, I 7 think a lot of contract files have been produced. 8 MS. ST. PETER-GRIFFITH: Yeah. But if 9 you're willing to make a representation regarding 10 the -- 11 MS. CITERA: I'm not going to make any 12 representation. 13 MS. ST. PETER-GRIFFITH: -- 14 completeness of Abbott's production, that's one 15 thing. But, Toni, I don't think you're in a 16 position to do that right now. 17 MS. CITERA: I'm not going to make any 18 representations. I'm allowed to disagree with 19 you. 20 Okay. Anything else? 21 MS. ST. PETER-GRIFFITH: Nope, that's 22 it.</p> | <p style="text-align: right;">Page 372</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF MASSACHUSETTS 3 -----X 4 In re: PHARMACEUTICAL INDUSTRY) MDL DOCKET NO. 5 AVERAGE WHOLESALE PRICE) CIVIL ACTION 6 LITIGATION.) 01CV12257-PBS 7 -----X 8 I, LYNN E. LEONE, state that I have read 9 The foregoing transcript of the testimony given by 10 me at my deposition on the 17th day of January, 11 A.D., 2008, and that said transcript constitutes a 12 true and correct record of the testimony given by 13 me at the said deposition except as I have so 14 indicated on the errata sheets provided herein. 15 16 17 LYNN E. LEONE 18 SUBSCRIBED AND SWORN to before me this _____ day 19 of _____, 2008. 20 21 _____ 22 NOTARY PUBLIC</p> |
| <p style="text-align: right;">Page 371</p> <p>1 MR. ANDERSON: Let's go off the record. 2 (WHEREUPON, the deposition was 3 adjourned.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p> | <p style="text-align: right;">Page 373</p> <p>1 UNITED STATES OF AMERICA) 2 NORTHERN DISTRICT OF ILLINOIS) 3 EASTERN DIVISION) SS. 4 STATE OF ILLINOIS) 5 COUNTY OF COOK) 6 I, Rachel F. Gard, Certified Shorthand 7 Reporter, do hereby certify that LYNN E. LEONE was first 8 duly sworn by me to testify to the whole truth and that 9 the above videotaped deposition was reported 10 stenographically by me and reduced to typewriting under 11 my personal direction. 12 I further certify that the said videotaped 13 deposition was taken at the time and place specified and 14 that the taking of said videotaped deposition commenced 15 on the 17th day of January, A.D., 2008, at 9:05 a.m. at 16 the offices of Jones Day, 77 West Wacker Drive, Suite 17 3500, Chicago, Illinois. 18 I further certify that I am not a relative or 19 employee or attorney or counsel of any of the parties, 20 nor a relative or employee of such attorney or counsel, 21 nor financially interested directly or indirectly in 22 this action.</p> |

94 (Pages 370 to 373)

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January 17, 2008

Chicago, IL

Page 374

1 In witness whereof, I have hereunto set my
2 hand and affixed my seal of office this 21st day of
3 January, A.D., 2008.
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5
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9 _____
10 RACHEL F. GARD, CSR
11 CSR No. 084-003324
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95 (Page 374)

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